



From November 18, 2011

The halls of the Capitol were buzzing this week as many of AIF's top priorities were brought to the forefront for discussion. With just one remaining week of interim committee meetings and the 2012 Legislative Session only months away, policymakers are scrambling to examine policy that will stimulate much needed job growth and economic development in Florida.

Some of these issues, which will be covered at length in our upcoming *2012 Session Priorities* publication, include:

- Destination Resorts – This week, AIF testified in favor of this proposal (SB 710) which will bring tens of thousands of jobs and much needed revenue to the state of Florida. Furthermore, AIF has launched its “More Jobs for Florida” campaign, which includes a website (www.floridagetstowork.com) dedicated to promoting this very important issue.
- Drug Repackaging - The Three-member Workers’ Compensation Medical Panel agreed to develop recommendations that the law be amended during the 2012 Session to cap reimbursement for repackaged drugs – a move strongly supported by AIF and the business community.
- Personal Injury Protection (PIP) – This issue was closely examined this week as lawmakers continue to work on reducing fraud associated with PIP claims that will lower premiums for Florida’s insured.

As the Capitol winds down for the Thanksgiving holiday, AIF would like to remind our members of the upcoming Tallahassee and Jacksonville Pre-Session Briefings which are scheduled for Monday, December 5th and Friday, December 9th, respectively. AIF will also be holding a South Florida Pre-Session on Monday, December 12th in Deerfield Beach.

These annual briefings provide a great opportunity for members to meet with legislative leaders, members of our lobby team and AIF staff on the issues most important to their company/association.

We look forward to your participation!

Environmental

On Tuesday, November 15th the House Agriculture and Natural Resources subcommittee met to hear presentations from state agency officials.

Jeff Littlejohn, Deputy Secretary for the Florida Department of Environmental Protection (FDEP), asked members to consider the Department's proposal of a statewide Environmental Resource Permit (ERP). The purpose of the ERP is to protect water resources such as water quality, water quantity (flood protection), and environmental functions (surface waters/wetlands). Currently, the ERP is implemented by FDEP, all 5 water management districts and one partially delegated local program located in Broward County. Each permit application is processed by only one of these entities. Deputy Secretary Littlejohn displayed 7 large, three ring binders to show the paperwork involved with an ERP. He would like the

Legislature to authorize FDEP to adopt a statewide ERP rule so that the permitting process could be simplified and streamlined.

It is the goal of FDEP to create one rule based on existing regional rules. Deputy Secretary Littlejohn wants to make sure that the rulemaking process is open and transparent, and one of collaboration. Furthermore, the Deputy Secretary would like to take the 7 rules that exist today for ERP and reconcile any arbitrary differences and account for legitimate physical and natural differences. He also stated that he wants the Department to continue with existing rules until the statewide rule is adopted. The Department will also grandfather any ongoing projects and permits.

Another issue discussed was the emphasis on DEP training and education. Deputy Secretary Littlejohn said that webinars would be used to control costs for training DEP employees across the state so that they understand the changes that will take place with the new rule.

Representative Franklin Sands (R-Weston) asked the Deputy Secretary why these changes have not already taken place. Littlejohn responded that the private sector has wanted to see this change for quite some time. There was a study conducted which demonstrated that the statewide ERP would work. Formerly from the private sector, Deputy Secretary Littlejohn sees the value of this change.

AIF and the business community are anxiously waiting to see the proposed legislation to make this significant change in the ERP process. Instead of having 5 different interpretations and inconsistent applications, there will be one interpretation guided by FDEP. With a statewide ERP no longer will we see different outcomes for similar projects. Instead, we will have consistent, predictable outcomes no matter where your business may be located.

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

On Tuesday, November 15th the House Agriculture & Natural Resources Subcommittee passed HB 421 Relating to Limited Certification for Fertilizer Application by a vote of 10-3. This bill, sponsored by Representative Jimmie Smith (R-Lecanto), will allow trained and certified professionals to operate in a manner that does not unduly hinder their ability to practice their trade or remain fearful of being regulated out of existence by local governments. The bill will recognize that the practices of state certified applicators are to be treated differently than those who are not. The proposed legislation would seek to exempt the regulated community from the ongoing efforts of local governments to adopt "one-size fits all" ordinances that seek to impose restrictions on product composition and create out-right prohibitions on use.

Representative Smith was not able to present his own bill due to a last minute health issue, so the bill was presented by his aide Chase Daniel. During the hearing, several individuals representing local government and environmental interests spoke in opposition to the bill citing concerns over home rule. Local governments have consistently opposed allowing the state to have more control over fertilizer application rules. Members of the business community, including AIF, spoke in favor of the bill calling it a bold, regulation-killing piece of legislation. Passage of this bill will prevent businesses from having to comply with a patchwork of different local ordinances; thereby, making it easier and more inexpensive to operate.

HB 421 will now advance to the House Community and Military Affairs Subcommittee for further consideration.

AIF SUPPORTS legislation that addresses the labyrinth of inconsistent, unscientific and arbitrary county and municipal ordinances which address the fertilization of urban turf, lawns, and landscapes.

On Wednesday, November 16th the House Federal Affairs Subcommittee met to consider three House Memorials and hear updates by the Attorney General's office on Florida's lawsuits regarding the Federal Affordable Care Act and the United States Environmental Protection Agency's adoption of Numeric Nutrient Criteria for Florida waters.

Mr. John Glogau provided an update on the EPA adoption of Numeric Nutrient Criteria for Florida waters. He said that there was not much to report other than the hearing has been set before Judge Hinkle on January 9, 2012. Mr. Glogau also told legislators that the Florida Department of Environmental Protection was moving forward with rules that will substitute the EPA rules. Those rules will be presented and hopefully adopted during the Environmental Regulation Commission (ERC) scheduled for December 8. If the ERC adopts the rules, then the rules will go to the Florida Legislature for ratification.

Representative Elaine Schwartz (D-Hollywood) explained that she thought the lawsuit was filed in Pensacola. Mr. Glogau confirmed that it had been; however, the federal government moved the suit to Tallahassee and now all of the legal challenges to the EPA rule will be before Judge Hinkle.

AIF's Numeric Nutrient Criteria Task Force continues to meet weekly on this issue. It is our hope that the ERC will approve the proposed rules with some amendments so that measure will come before the Florida Legislature for ratification in January.

Health Care

On Tuesday, November 15th the House Health and Human Services Quality Subcommittee held a panel discussion on health benefit mandates. The panel members included **Michelle Robleto with the Office of Insurance Regulation (OIR); Spencer Kraemer with the Department of Management Services (DMS) Group Health Insurance Division; David Lynch, Blue Cross Blue Shield of Florida, Michael Garner of the Florida Association of Health Plans (FAHP); Victoria Zepp, Council of Developmental Disabilities and Paul Hull, the American Cancer Society, Florida Division.**

Subcommittee Chair John Wood (R-Haines City) formed this panel to learn more about the cost of mandates and overall effect they have on health insurance premiums. At the beginning of the meeting Chair Wood noted that current law calls for a comprehensive report outlining the social and financial impacts of a proposed mandate to be provided when a mandate is proposed in order to allow legislators to determine if the mandate is in the best public interest.

The DMS representative shared the agency's review of the federal health care law and how its implementation would affect the cost of state's health insurance program. If or when the act takes effect, some of the provisions will increase the cost of coverage for state employees. Further, a provision in the federal act that requires the development of an essential benefits package could have a large impact on the state.

The "essential benefits package" is a yet to be determined package of health care services that health insurers across the country will be required to provide. Since this part of the law wouldn't take effect until 2014, it remains to be seen if this package will be more comprehensive than what is required now in Florida. If Florida's coverage mandates are more than what the essential benefit package calls for, our state could be required to pay for certain subsidies to help people obtain coverage which otherwise would have been paid by the federal government.

Members of the committee were most interested in putting a dollar figure associated with each separate mandate in law. However, representatives of FAHP and Blue Cross noted that this is not easy, and perhaps nearly impossible to do. A comprehensive study of Florida's mandates has not been conducted and other states that have conducted such reviews have found it difficult. The Council for Affordable Health Care (CAHI) estimated that (depending on the state, number of mandates, and type of policy) mandates can increase the cost of a policy between 10 and 50 percent. Mr. Garner reminded members that even when one particular mandate is found to increase the cost of a policy by only 1 percent, it's the cumulative effect of all mandates that makes insurance too expensive for many citizens.

Further, putting a cost to a certain mandated service cannot reflect the unintended consequences that occur as a result of the mandate. Some unintended consequences include:

- Limiting the choices of coverage that can be offered to employers, employees and individuals;
- Increasing the number of persons who do not have coverage because that person or their employer is priced out of the market; *and*
- Requiring a service that is not the best care choice for the patient. As technologies continue to develop, a service that was the best clinical practice becomes out of date and may be harmful to the patient.

Panel members who advocated for certain mandates suggested that some provisions in statute have forced the use of more preventative measures which in turn may have lowered hospital stays or prescription drug costs. However, they also noted that the cost of these services should not be borne entirely by health insurers. Instead, the advocates want to bring together state agencies and all stakeholders to raise the awareness of services already available to persons in need.

No next steps were suggested by the committee members; although Chair Wood simplified the argument by explaining that this is a question of whether the state will allow for the free market to work versus more government intervention. All seemed to agree that the needs of Florida's citizens must be balanced with the true cost of requiring certain coverage.

On Wednesday of this week, the Assistant Attorney General provided an update to the House Federal Affairs subcommittee on the lawsuit brought by Florida and 26 other states against the federal health care law. The challenge has received a number of rulings, but most important was the announcement this week that the U.S. Supreme Court has agreed to take up the case.

The Court will most likely begin hearing arguments from all parties in March and have set aside a precedent setting five and one-half hours to hear arguments. Specifically, the Court set aside two hours to hear arguments on the constitutionality of the individual mandate and 90 minutes on the severability of the individual mandate. This refers to an attempt to separate the individual mandate from the rest of the act so that if the mandate is held unconstitutional, it would not negate the entire act. Furthermore, one hour has been set aside for arguments regarding jurisdiction and another hour is set for review of the Medicaid expansion provision.

Taxation

On Monday, November 14th the Senate Community Affairs Committee took up and considered Senate Joint Resolution (SJR) 314 Relating to Ad Valorem Taxation by Senator David Simmons (R-Altamonte Springs).

Senator Simmons explained that the resolution would take the place of House Joint Resolution 281 that passed last session and is scheduled to be on the November 2012 general election ballot if it passes.

He further explained that the SJR amends the constitution to permit the Legislature to prohibit increases in the assessed value of homestead and certain non-homestead property if the just value of the property increases. This is called the recapture problem which currently allows the Property Appraiser to recapture assessment lost to save our homes when the just value goes down.

He went on to say that the resolution reduces the limitation on annual assessment increases applicable to non-homestead property from 10% to 7%.

Senator Simmons explained that the most favorable feature of SJR 314 for homestead owners is what he called the super homestead exemption which is a percentage of the value with certain limits. This exemption is available to all homesteaders rather than just first time home buyers. Senator Simmons said this will help us regain our loss in migration from other states.

Senator Garrett Richter (R-Naples) offered a courtesy amendment which changed the percent from 7 to 5, and called for a reassessment “true up” every five years.

The amendment passed and questions on the bill as amended began with Senator Jim Norman (R-Tampa), asking about save our homes 3% cap on homestead property and the super homestead exemption.

Almost ever members of the committee expressed concern about the “true up” after 5 years on non-homestead property and the likely large increase in taxes when the assessment went up after being held down to 5% in the previous 4 years.

After approximately 45 minutes of questions about the amendment, Chairman Mike Bennett (R-Bradenton) had the vote by which the amendment passed reconsidered and the amendment was withdrawn.

The Florida Association of Property Tax Professionals testified in favor of the bill without the amendment while the Florida Association of Realtors remained in opposition.

After a few minutes of debate, SJR 314 passed unanimously.

SJR 314 will now advance to the Senate Judiciary Committee for further consideration.

AIF will continue to monitor this proposal closely as it moves through the process and we look forward to working with Senator Simmons on finding ways to reduce the impact of property taxes on employers.

On Tuesday, the House Economic Affairs Committee Chair called upon Representative John Wood (R-Haines City) to present HB 103 Relating to Transfer of Tax liability.

Representative Wood briefly explained that the bill revises the requirements for a transferee to take possession of a business without assuming any outstanding tax liabilities of the transferor. He stated that the current economy is causing many business closures and that this bill makes such businesses more attractive to potential buyers.

There were no questions by members of the Committee and the Chair called on public testimony.

The Business Section of the Florida Bar and **Frank Meiners, Lobbyist for Associated Industries of Florida**, waived their time in support of the bill. The bill subsequently passed with unanimous support.



HB 103 has one final stop in the House Finance & Tax Committee before proceeding to the Floor. The Senate companion – SB 170 by Senator Thad Altman (R-Melbourne) – is currently in the Senate Commerce & Tourism Committee.

AIF SUPPORTS legislation that will make Florida more attractive for potential buyers of businesses by providing certainty on not having to assume any outstanding tax liabilities or clarifying the maximum tax liability if the buyer agrees to assume them.

Insurance

On Wednesday, November 16th the House Insurance & Banking Subcommittee work shopped the Proposed Committee Substitute (PCS) for HB 119 Relating to Motor Vehicle Personal Injury Protection Insurance by Representative Jim Boyd (R-Bradenton).

Questions from Democrats regarding the claimants' attorneys' fees cap and questions from Republicans relating to expanding licensure of clinics, directed to the bill's sponsor, consumed most of the meeting. While no decisions were made on the bill, it was clear that the PCS would have been adopted if a vote was taken.

From discussions with Representative Boyd and Chairman Bryan Nelson (R-Apopka), improvements from the industry's perspective will be made to the PCS before it is brought back to the Subcommittee during the week of December 5th. Tentative improvements to be added include reestablishing examinations under oath, excluding commercial motor vehicle insurance from the mandatory rate filing provisions, and continuing "reasonable" as the standard for the submittal and payment of medical charges.

Also on Wednesday, the Senate Banking & Insurance Committee began the process of receiving testimony regarding motor vehicle personal injury protection reform from two panels – one consisting of industry representatives and the other of consumer groups and PIP claimant attorneys. Time ran out before the industry panel completed their presentations. The Committee will continue the panel presentations and discussions during the week of December 5th.

The Three-member Workers' Compensation Medical Panel consisting of the Chief Financial Officer's designee, **Insurance Commissioner Kevin McCarty**, and two members appointed by the Governor – one representing employers and one representing employees – met on Wednesday and took testimony regarding the drug repackaging issue.

The National Council of Compensation Insurance (NCCI) testified that capping the repackaged drug reimbursement payments at the original average wholesale price (AWP) should reduce workers' compensation rates by an average of 2.9%, which will result in savings to employers of approximately \$62 million. Subsequently, the panel agreed to develop recommendations to the President of the Senate and the Speaker of the House of Representatives that the law be amended during the 2012 Session to cap reimbursement for repackaged drugs.

AIF SUPPORTS legislation that will reduce workers' compensation costs to Florida employers while helping Florida restore its vibrant economic position.

Economic Development

Throughout the week, **Commerce Secretary Gray Swoope** continued to educate members of the Legislature on a myriad of items the Department of Economic Opportunity (DEO) is currently working on, including the establishment of procedures, policies and organization of one of the state's newest and largest state agencies. The Department, created during the 2011 legislative session, is an agency that was created to consolidate functions from the former Department of Community Affairs, the Department of Environmental Protection, the Agency for Workforce Innovation and the Office of Tourism, Trade and Economic Development.

Secretary Swoope, who serves as both the state's Secretary of Commerce and President/CEO of Enterprise Florida, spoke to three different House and Senate economic development committees. Secretary Swoope first and foremost assured members of the Legislature that despite press accounts, state funds earmarked for economic development incentives are in fact secure and awaiting award. Media outlets across the state reported earlier that millions of dollars in state resources had been awarded to companies inappropriately and without regard to job creation commitments, which Swoope clarified as a report taken out of context by the media. Additionally, Swoope reassured legislators that new processes and procedures were being implemented to ensure all precautions were being taken in the allocation of tax payer resources.

Swoope continued throughout the meetings to review the State's most successful economic development tools, including Qualified Targeted Industry (QTI) incentives, Quick Action Closing, the Innovation Incentive Fund and the Road Fund. Combined, these incentives have created in excess of 100,000 jobs for the state in various sectors of the economy. Swoope admitted that there were tweaks to each program needed but that in sum, the larger priority for the DEO is consistency and continuity in dealing with prospective businesses looking to expand or locate in Florida.

Throughout the various committees, members questioned potentially failing contracts and deals between the state and awarded firm. Swoope admitted that while some of the facts may appear to show projects under performing, the reality is that many projects take multiple years to reach their full potential. Additionally, Swoope reminded concerned legislators that when an award is made to a project the actual disbursement of state funds are not made until performance has been realized. Swoope closed the meetings by assuring legislators that the DEO would continue to work diligently to complete the agency's establishment while working simultaneously to create as many jobs for the state as possible.

Workforce Development

The House Business and Consumer Affairs Subcommittee took up the issue of workforce and workforce governance at a meeting on Tuesday, November 15th. The subcommittee, chaired by Representative Doug Holder (R-Sarasota), is under the jurisdiction of the House Economic Committee overseen by Chairwoman Dorothy Hukill (R-Port Orange).

The Legislature's attention has turned toward workforce services delivery and governance in response to the recent controversy surrounding regional workforce boards, whose members were cited for giving contracts to board members themselves and their families. A state audit revealed that the boards doled out more than \$7.5 million in contracts to entities involving board members during the period 2008 to

2010. Gov. Rick Scott has since made reformation and heightened accountability of the boards a priority.

Florida's 24 regional workforce boards are principally responsible for providing workforce services directly to Florida's businesses and job seekers at local levels. They operate service centers that include job placement and recruitment assistance, and funding for skills training. Regional board efforts are often geared toward specific industries or targeted populations.

Chris Hart, IV, President and CEO of Workforce Florida, Inc. appeared before the subcommittee on behalf of the Governor to review proposed statutory changes to the operation and function of the boards. These amendments will be the basis of a committee bill that will:

- Cap the membership of the state's regional workforce boards to the limits in Federal law.
- Require the authorization of the Governor to appoint additional members beyond the cap.
- Require regional workforce board chairs and the respective President/CEOs to serve at the approval and pleasure of the Governor.
- Require the boards' to have their respective budgets ultimately approved by Workforce Florida, Inc., a statewide public-private partnership charged with overseeing the state's workforce system.
- Require regional workforce board members to file financial disclosures.
- Permit the Governor to remove any board member for cause.
- Enjoin the new Dept. of Economic Opportunity to conduct annual performance reviews of each board with Workforce Florida, Inc., and
- Direct Workforce Florida, Inc., to evaluate the means to establish a single, statewide workforce system brand for Florida by June 1, 2012.

Growth Management

On Wednesday, November 16th the House Community & Military Affairs Subcommittee met and considered two bills – HB 107 Relating to Special Districts by Representative Matt Caldwell (R-Ft. Meyers) and HB 387 Relating to Electronic Filing of Construction Plans and Other Related Documents by Representative Larry Ahern (R-St. Petersburg).

HB 107 would allow two or more contiguous independent special districts with similar functions and governing bodies that were created by the Legislature to voluntarily merge under specified circumstances. Furthermore, the bill allows merger proceedings to be initiated either by joint resolution of the governing bodies of each district or by 40 percent or more of the qualified electors in each district. The bill requires independent special districts to adopt a merger plan that outlines the specific components for the proposed merger, which shall be subject to a public hearing and voter referendum. The effective date of the proposed voluntary merger is not contingent upon the future act of the Legislature; however, the merged district's powers are limited until the Legislature approves the unified charter by special act.

The voluntary merger provisions of this bill do not apply to independent special districts whose governing bodies are elected by district landowners voting the acreage owned within the district and shall preempt any special act to the contrary.

In addition, HB 107 requires an involuntary dissolution or merger of an independent special district to be subject to a special act of the Legislature and approved by voter referendum.

Finally, the bill allows a special district that meets the criteria for being declared inactive or that has already been declared inactive to be dissolved or merged without a referendum. The bill also allows the governing body of a special district to unanimously adopt a resolution to declare the special district inactive.

After three technical amendments, the bill passed the committee unanimously.

HB 107 will now advance to the House Finance & Tax Committee for further consideration. A similar measure in the Senate – SB 192 by Senator Mike Bennett (R-Bradenton) – awaits hearing in the Senate Budget Subcommittee on Finance and Tax.

AIF will continue to monitor this legislation as a potential method for improving efficiency among special districts in Florida.

Subsequently, the Subcommittee took up HB 387 which authorizes, upon the approval of the local building code administrator or building official, the electronic submission of construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee for review by the building code administrator, the building official, or a plans examiner.

Documents submitted electronically may also be signed by the licensee and dated and sealed electronically with the licensee's seal in accordance with the "Electronic Signature Act of 1996."

The bill passed unanimously without amendment.

HB 387 will now proceed to its final stop in the House Economic Affairs Committee. A similar measure in the Senate – SB 600 by Senator Mike Bennett – is awaiting consideration in the Senate Community Affairs Committee.

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.

Destination Resorts

On Wednesday, November 16th the Senate Regulated Industries Committee held a workshop on SB 710 Related to Gaming by Senator Ellyn Bogdanoff (R-Ft. Lauderdale). The workshop was designed to give potential developers of these projects an opportunity to outline their support for the bill and the economic benefits of the plan. In addition, it provided a forum for the state's existing pari-mutuels to give their position.

SB 710 would allow for the creation of three high-end destination resorts in the areas of Miami-Dade and Broward County. The bill requires that each facility must expend at least \$2 billion in new development and construction, bringing in at least \$ 6 billion in private capital investment into the area. The creation and operation of these three facilities are expected to produce between 80,000-100,000 direct and indirect jobs in the state; tens of thousands of which will be nearly immediate jobs for the state's beleaguered construction industry. The bill would also create a state gaming commission that would oversee the state's rapidly expanding gaming industry.

Speaking on behalf of potential developers where representatives from Resorts World Miami, Las Vegas Sands, MGM Resorts International, Wynn Resorts. Isle of Capri Casinos – a pari-mutuel facility – also presented on the bill. The potential developers all voiced support for the legislation, citing the number

of jobs that these facilities would create here in the state. In addition, the developers tried to calm fears that these properties would “cannibalize” existing businesses in the area, with the Resorts World Miami representative saying, “We’re not looking at eating people’s lunch; we’re trying to create meals for everybody.” The Isle of Capri Representative voiced opposition to the legislation saying that these resorts would damage the state’s already established pari-mutuel industry.

Senator Bogdanoff stated that she sponsored this legislation to help create direction for Florida’s growing gaming industry. Bogdanoff stated, ““The goal here is to reform gaming and have a strategic direction.” Senator John Thrasher (R- St. Augustine) voiced questions relating to the varying taxes placed on casinos in states where they operate, noting that in some states the tax rate on casinos is much higher than the 10 percent rate contained in SB 710. The resort developers maintained that in order to invest a minimum of \$2 billion per facility, as outlined in the bill, tax rates must remain low.

The Senate Regulated Industries Committee plans on holding a second workshop on the bill during the December 4 committee week.

AIF SUPPORTS any proposal that will allow for free market bidding, ensuring that premier development companies come to Florida to build world-class destinations and bring all of these direct and indirect economic benefits to Florida and Florida businesses.

Space

On Tuesday, November 15th the House Transportation & Economic Development Appropriations Subcommittee met to consider HB 97 Relating to Spaceport Facilities by Representative Ritch Workman (R-Melbourne).

The bill amends current law by defining the term “launch support facilities” and deleting the term “spaceport launch facilities.” Proponents of this legislation, including AIF and Space Florida, maintain that the bill will provide for:

- The ability to better fund infrastructure upgrades and improvements to space-related facilities by using SIS monies more appropriately for space infrastructure projects not airport related; *and*
- The alignment of federal and state definitions so that any future federal grants may qualify for the same projects.

HB 97 passed with unanimous consent and will now proceed to its final stop in the House Economic Affairs Committee.

AIF SUPPORTS this legislation as a means of providing Florida’s aerospace industry with the proper incentives to create jobs in a variety of high-value-added sectors.