



INTERIM LEGISLATIVE BRIEF

From February 15, 2013

In another interesting interim committee week leading up to the 2013 Legislative Session, health care reform dominated discussion. Also at the forefront of conversation was taxation, economic development, legal and judicial as well as environmental issues. Associated Industries of Florida (AIF) addressed numerous committees this past week on issues of importance to our members and the business community as a whole.

Health Care & the Patient Protection and Affordable Care Act

On Wednesday, February 13th, **AIF's General Counsel, Tammy Perdue**, addressed members of the Senate Health and Human Services Appropriations Subcommittee on the implementation of a Diagnosis-Related Group (DRG) system and its importance to the business community. This is due to the dollars saved in the Medicaid Program to be freed up to be used in other important areas of the state's \$74.2 billion budget. "Lowering tax obligations on Floridians is always good for business. Delaying this implementation would delay savings that could be provided down the road to Floridians," said Mrs. Perdue.



The discussion focused on how the state will reimburse hospitals providing care to Medicaid recipients. The state's new Statewide Medicaid Managed Care Program (SMMC) called for implementing a DRG system as a means of containing costs in the Medicaid Program. This new system will reimburse hospitals based on the needs of the patient, rather than paying a set daily fee for each patient which is the current practice.

Florida employers have subsidized the state's Medicaid Program for many years through the private health insurance premiums. The new system, which has been used in the Medicare Program for many years, provides an incentive for hospitals to deliver services in an efficient manner. The new system is scheduled to take effect on July 1st of this year. Yet, the Florida Hospital Association (FHA) and the Safety Net Hospital Alliance (SNHA) are trying to delay the implementation date.

This debate promises to be a controversial one throughout session as powerful stakeholders and their lobbyists' line up on either side of the issue. Sen. John Thrasher (R-Jacksonville) expressed frustration with the quarrel and called for all the parties to get in the room and work out a compromise.

At this same meeting, AIF's Tammy Perdue announced the Association's support for funding increases in the state's Graduate Medical Education (GME) program. A recommendation is on the table for an \$80 million for GME expansion of the Statewide Medical Residency Program. The increased funding would ensure additional Florida residency slots for medical students which, in turn, would encourage them to remain in Florida when they finish their education. With all the changes coming in the health care delivery system, Florida does not have a sufficient number of physicians to match the Florida residents' health care needs. During the 2011-12 school years, Florida had 421 more medical students than it did residency positions. A shortage in physicians in our state will restrict our resident's access to health care services.

On Monday, February 11th, the Senate Select Committee on the Patient Protection and Affordable Care Act (PPACA), tasked with determining how Florida will implement PPACA, heard from policy and industry experts expanding the Medicaid program. PPACA called for expanding Medicaid from 100 to 138 percent of the federal poverty level and agreed to pay 100 percent of the expansion for new persons enrolling in the program. After fiscal year 2020, the federal government would pay for 90 percent of new enrollees. However, the U.S. Supreme Court ruled in mid-2012 that states could opt out of the expansion.

Policy experts from the Health Policy Institute for Georgetown University and the Florida Center for Fiscal and Economic Policy spoke in favor of expanding Medicaid coverage. Their research showed the increased costs incurred in expanding the program would be more than offset by the realized savings. Generally, when the neediest Floridians have regular access to preventative care, they will no longer seek care through expensive emergency rooms. Further, complicated and costly procedures arising when preventative measures are in place, will also be avoided.

Support for expanding Medicaid was echoed by members of the Florida Hospital Association (FHA). The FHA study found if Florida expanded Medicaid eligibility, it would generate 54,000 new jobs and increase the federal funds coming to the state which would increase consumer spending, thus stimulating economic growth.

Opposing expansion was the President and CEO of the Foundation of Government Accountability's Tarren Bragden, who said other states that have expanded eligibility in the program have had negative results. Possible negative outcomes could be that individuals abandon their private coverage and move into the Medicaid program and employers begin dropping coverage altogether.

The next meeting of the Senate Select Committee on PPACA will be Monday, February 18th, when the Committee will hear how the law will affect state employees from the Division of State Group Insurance. More importantly, the Committee will hear cost estimates on how the new law will affect Florida from the state's Office of Economic and Demographic Research. Next week, the House Select Committee will discuss Medicaid expansion as well as how the state is situated in terms of a sufficient physician and nursing workforce.

Over the years, Florida's employers have subsidized the cost of the Medicaid Program but great strides were made to change this trend with passage of the Statewide Medicaid Managed Care Program. It is important the state continue implementing this reform effort in order to bring budget predictability to the program and quality care to those seeking care in an expensive emergency room or those whom delay seeking care until their condition is severe.

On Tuesday, February 12th, the House Health Quality Subcommittee approved HB 413 by Rep. Travis Hutson (R-Palm Coast) which would expand the scope of how a physical therapist implements a plan of treatment for a patient. Currently, physical therapists may implement a treatment plan only if the patient's condition is within the scope of physical therapy and the time frame for the treatment is under 21 days. The bill was approved unanimously and will now head to the House Health Care Appropriations Subcommittee, scheduled to meet Wednesday, February 20th. The Senate companion – SB 536 by Sen. Nancy Detert (R-Venice) – has not yet been heard.

Taxation

At the Senate Appropriations Subcommittee on Finance and Tax meeting this past Tuesday, February 12th, AIF testified for the task force recommendations and urged the Committee to consider reforming the Florida's Communications Services Tax (CST) by moving to a unified tax and to address the high overall rate of CST taxes in Florida. AIF also responded to questions concerning the taxation of prepaid wireless services, and discussed the administrative difficulties with applying the CST to prepaid services along with the high rate of taxation such a decision would impose on those services and customers.

The Balance of the meeting was consumed by a discussion of Florida's Communications Services Tax (CST) and a presentation by the Interim Executive Director of the Department of Revenue (DOR) Marshall Stranburg and others on the Report issued by the CST Working Group on repealing the CST and replacing this tax with a new general sales tax of 6.34% on all goods and services subject to sales tax, including communications services. Testimony was heard from the DOR, Verizon, Cable industry, retailers and local governments.

Committee members were NOT receptive to this "sales tax swap" – and the discussion then focused on alternatives, including moving to a streamlined, unified CST with revenues distributed by the state to local governments. The Committee also heard testimony and had questions related to the taxation of "prepaid wireless" phones. The Committee is next scheduled to meet Wednesday, February 20th.

At the same meeting, Christian Weiss, the Governor's office tax policy chief, presented the Governor's proposed tax policy initiatives including the continued reduction in the threshold for filing Corporate Income Tax and the sales tax exemption for the purchase of manufacturing equipment. Several members, including Senators Jeff Clemens (D-Lake Worth), Joseph Abruzzo (D-Wellington) and Gwen Margolis (D-Miami) raised questions about these and their impact on new job creation/economic development. Senator Thad Altman (R-Melbourne) applauded the Governor, especially as it relates to continuing to recommend the phasing out of the corporate income tax. Senator Jeremy Ring (D-Margate) indicated he would probably support but was interested in pursuing more targeted tax cuts and initiatives.

Economic Development

On Wednesday, February 13th, in the House Economic Development and Tourism Subcommittee chaired by Rep. Carlos Trujillo (R-Doral), AIF spoke in favor of HB 4013 by Rep. David Santiago (R-Deltona) that would remove the award cap over all fiscal years for a corporation receiving Qualified Targeted Industry (QTI) incentives and the Qualified Defense and Space Flight Business Program incentives. Both of these incentives programs, currently administered by Enterprise Florida, have caps both yearly and over the life of the award. The QTI has a yearly limit of \$1.5million and a \$7 million overall while Qualified Defense Incentive has a \$2.5 yearly cap and a \$7 million cap over the life of the award. HB 4013 seeks to remove the \$7 million cap on both programs.

The legislation passed the Committee unanimously and will be reported to the House Finance and Tax subcommittee, scheduled to meet Thursday, February 21st. AIF will continue to support Rep. Santiago in the process and has consistently supported legislation meant to provide incentive and support to the state's economic drivers. By removing these caps, the state can further encourage job creation and retention.

Legal and Judicial

On Wednesday, February 13th, the Senate Appropriations Subcommittee on General Government met to discuss the current status of Florida's workers' compensation system. Commissioner McCarty, with the Office of Insurance Regulation, (OIR), provided an overview to the committee detailing the cost-drivers in the system, specifically focusing on the costs passed through to the business community as a result of inflated reimbursements for repackaged drugs. The Chairman of the Subcommittee, Sen. Alan Hays (R-Umatilla), has sponsored the drug repackaging legislation for the last several years which would close the loophole limiting the reimbursement rate for repackaged pharmaceuticals. Senator Hays has filed the legislation again this year as SB 662 with Rep. Matt Hudson (R-Naples) sponsoring the bill as HB 605. **This issue will again be a top priority for AIF moving into the 2013 Legislative Session due to the decrease in workers compensation payments Florida businesses will see, if enacted.**

On the same day, at the House Civil Justice Subcommittee AIF stood in support of HB 7015, relating to expert testimony, by Rep. Larry Metz (R-Groveland) which aligns Florida's evidentiary standard for expert witness testimony with that of the federal courts. Currently, Florida is an outlier among states in its use of the outdated *Frye* standard for admissibility of expert witness testimony. The bill would align Florida with other leading states that utilize the *Daubert* standard, therefore ensuring that "junk science" is not admitted into our courts. This issue is important to the business community because Florida-based companies are regularly joined into costly and unnecessary lawsuits so that trial lawyers may gain access to our courts, thereby increasing the cost of doing business in Florida. The legislation passed by a vote of 8 to 4. Rep. Metz has carried and passed this legislation off the House floor for the last two Legislative Sessions. **AIF supports legislation to adopt the *Daubert* standard for expert witness testimony and to align Florida courts with the Federal Rules of Evidence utilized in federal courts and adopted by a majority of state courts.**

Also in the House Civil Justice Subcommittee, AIF stood in support of HB 457, by Rep. MaryLynn Magar (R-Hobe Sound). The legislation would allow Florida employers to recover payments from worthless checks and other transactions without the sending of a specified letter if the business has a notice posted at point of sale or on invoice. If enacted, this bill would allow Florida businesses to collect money due to them in a timelier manner. The bill passed by a vote of 10-2 and now moves to the House Business and Professional Regulation Subcommittee.

Insurance

On Wednesday, February 13th, AIF stood in support of HB 335 by Representative Jim Boyd (R-Bradenton) at the House Insurance and Banking Subcommittee. The bill allows a property and casualty insurer to file a new policy or changes to an existing policy as an informational filing with the Office of Insurance Regulation (OIR) in lieu of filing for approval prior to use. The bill will substantially reduce a backlog of form filings awaiting approval by the OIR. Thus, the bill will allow insurers to react timely to the insurance needs of the business community and will enhance competition among insurers.

Environmental

During the House Agriculture & Natural Resources Subcommittee meeting on February 12th, AIF spoke in support of HB 109 by Rep. Dana Young (R-Tampa). It extends the time for water utilities to get a Consumptive Use Permit for an alternative water supply project from 20 years to 30 years. This will save homeowners and businesses money since the 30 year period is the usual period of time that local

governments use to finance infrastructure projects. The bond firms charge more for the 10 year period not covered by the permit. This legislation will not only save our members money, but will expand Florida's water supply, helping businesses. HB 109 was passed through the Committee unanimously and now moves to the House State Affairs Committee, scheduled to meet Thursday, February 21st. The Senate companion, SB 364 by Sen. Alan Hays (R-Umatilla) is on the agenda for the Senate Community Affairs Committee for Thursday, February 21st.

In addition, AIF stood in support of another bill on the House Agriculture & Natural Resources Subcommittee agenda, HB 203 by Rep. Halsey Beshears (R-Monticello). The purpose of this legislation is to prevent double regulations by governments. If an agricultural activity is regulated by either the federal or state governments then this bill prevents a local government from also charging a fee to regulate it. The current law applies to just Florida counties, but some municipalities have expanded their boundaries to include farm operations and are applying fees for certain activities. The committee passed the bill unanimously.

Ethics and Elections

On Monday, February 11th, the House Subcommittee on Ethics and Elections adopted its Campaign Finance Reform proposal, HB 569, sponsored by Rep. Rob Schenck (R-Spring Hill). The vote was 12-2 in favor of the bill. This legislation represents a major restructuring of Florida's regulation of political campaigns. The centerpiece of the bill raises Florida's 20 year-old cap on campaign contributions from \$500 to \$10,000 per election. Observers view this as an "opening bid" in negotiations with the Senate, which favors a lower cap.

The bill also abolishes committees of continuous existence (CCEs) based on the perception of widespread abuses by elected officials who used their CCEs for personal expenses and lavish entertainment. However, the ban would also abolish the hundreds of legitimate CCEs operated by businesses and by many organizations and associations. In reality, the ban is neither as absolute nor draconian as it sounds in that existing CCEs would be able to transfer their funds to political committees that operate in essentially the same manner as CCEs. This leads critics to describe the ban as being more cosmetic than actual.

The Senate is expected to initiate its own campaign finance proposal in the first weeks of the Regular Session.

Energy

The House Energy and Utilities Subcommittee met Tuesday, February 12th, to hear a presentation by Public Service Commissioner Julie Imanuel Brown, Chair of the Study Committee on Investor-Owned Water and Wastewater Utility Systems. The Study Committee was created by the Legislature last year and mandated to consider the following issues:

- The ability of small utilities to achieve economies of scale when purchasing equipment, commodities, or services
- Availability of low interest loans to small, privately held utilities
- Tax incentives or exemptions to small utilities
- Impact on customer rates if a utility purchases an existing system
- Impact on customer rates if a utility provides service through a reseller

The Study Committee recommends the following:

- The Legislature should direct the Department of Management Services to authorize investor owned utilities to be eligible users under state purchasing contracts.
- The Legislature should open the availability of the State Revolving Trust Fund to all investor owned water utilities.
- Extend ad valorem, sales tax, and property tax exemptions to investor owned water and wastewater utilities.
- Allow PSC-exempt resellers to charge up to 9 percent to recover meter reading and billing costs.

The Study Committee also recommended that the PSC prohibit recovery of rate case expense in Staff Assisted Rate Cases (SARC's) and prohibit recovery of rate case expense for more than one case at a time.

The full report is available today, February 15th at www.floridawaterstudy.com.

Education

The Senate Appropriations Subcommittee on Education met Tuesday, February 12th and heard testimony from Colleges and Universities on incentive funding and input from Early learning and K-20 on baseline budgeting. The Committee met a second time on Wednesday, the 13th, and heard a presentation from Commissioner Tony Bennett on Common Core Standards and the State's level of readiness to test those new standards in the 2014-2015 school year. The subcommittee is next scheduled to meet Wednesday, February 20th.

The House K-12 Subcommittee met this past Wednesday, February 13th, to discuss graduation requirements and view presentations from some industry training programs. This is a precursor to next week when the Committee will present their proposal for career education on Wednesday, February 20th.