

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



P.O. Box 784 • Tallahassee, FL 32302 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • fbnnet.com

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SPECIAL NOTICE: TAXATION OF COMMUNICATION SERVICES

Several AIF members have recently inquired about pending Department of Revenue (DOR) action to tax private, two-way mobile-radio systems that are used for dispatch and communication between service vehicles and company headquarters.

Florida's modernized and streamlined communications services tax went into effect on October 1, 2001, (Chapter 202, Florida Statutes.) In general, the new tax structure includes a statewide rate of 6.8 percent, plus a gross receipts tax rate of 2.37 percent, for a total state levy of 9.17 percent. Local taxes are also permitted by law.

The tax is imposed on the sale of communication services that originate and terminate in Florida. The tax is also imposed on the actual cost of operating "substitute communications systems." The Department of Revenue asserts that certain privately owned mobile-radio systems take the place of "switched services" and are, therefore, substitute communications systems that are subject to the communication services tax under the broad definitions of the 2001 Act. This interpretation is the crux of the present dispute.

This issue has arisen very late in the legislative session. A routine tax bill, HB 1907 by the House Finance and Tax Committee and Representative Randy Johnson (R-Winter Park), was amended to expressly exempt from taxation a not-for-hire mobile communications system that exclusively serves the internal communication needs of a nonprofit utility provider. This provision, however, has triggered new concerns, as DOR would likely construe the 2003 statutory revision as a manifestation of legislative intent to permit taxation on similar communications systems owned and operated by companies other than nonprofit utility providers.

Obviously, this would present a problem to many Florida businesses.

An omnibus statutory exemption would be ideal. at this late date, however, such a provision would, at least in theory, have a significant fiscal impact that could complicate efforts to complete budget deliberations in a timely manner. Also, a costly fiscal impact might preclude consideration under House and Senate rules.

Representative Johnson chairs the House Finance and Taxation committee. His Senate counterpart is Senator Walter "Skip" Campbell (D-Tamarac). Both legislators are sensitive to the problem and have expressed a willingness to address the issue, if possible, this year. As we approach the end of the regular session, however, remaining options are severely constrained.

AIF is working with Representative Johnson and Senator Campbell, and with other affected interests, to find a viable solution to this problem. It appears that the best approach may entail

removal of the electric co-op amendment from HB 1907, coupled with statements of legislative intent by the responsible committee chairs in the respective House and Senate chambers that the 2001 enactment was not intended to confer authority on DOR to tax this particular type of communication service. We have reason to believe that DOR would abide by this statement of legislative intent, pending further legislative action, if necessary, next year.

At this point, the matter is very much in flux; and a positive outcome is not yet assured. Nevertheless, we hope to bring you a more definitive — and favorable — report, by early next week.

AIF BILLS OF INTEREST

In this section you will find capsule summaries of bills that are being heard in the House and Senate chambers and the status of their companion measures. Unless substantive floor amendments are added to the bills, we will only report on pertinent actions, such as whether the bill passed or failed. By clicking on the link underneath any given bill, you can always review a more detailed summary of the bill's action.

SB 54, sponsored by Senator Lee Constantine (R-Altamonte Springs), prohibits political subdivisions of the state from requiring employers to pay a minimum wage other than that set by the federal government. Today, this bill had its third reading on the Senate floor. Amendments were introduced but failed. The bill passed on a 22-13 vote. The House companion bill, HB 321, sponsored by Representative Frank Attkisson (R-Kissimmee), was scheduled for a second reading but was temporarily postponed on April 10. There has been no further activity on this bill, but it is likely that the House bill will be placed back on the special order calendar, when the Senate bill arrives in messages.

On balance, SB 54 represents an important step in the right direction, especially for the hospitality industry in Florida. As a matter of principle, however, AIF continues to oppose all costly living-wage mandates at the local level including those that are limited to commercial transactions involving local government entities.

The medical-malpractice bills that were read a second time and ordered engrossed yesterday were heard again today by the Senate on third reading. The joint sponsors of these bills are Senators Burt Saunders (R-Naples) and Durell Peaden (R-Pensacola).

CS/CS/SB 560 & 280 mandates an insurance-rate rollback and provides contingent authority for a state-run medical-malpractice insurance fund. It passed as amended with a 36 to 1 vote.

CS/CS/SB 562 & 1912 strengthens reporting and disciplinary actions against health-care providers. It too passed as amended with a vote of 36 to 1.

CS/CS/SB 564 & 2120 & 2620, contains the Senate's litigation reforms. Today, the bill endured a tremendous amount of debate with lengthy questions and eloquent speeches by opponents and proponents of this legislation. Finally, a vote was taken and the bill passed on a 34 to 6 vote. Some senators who voiced opposition opined that the bill would help to alleviate the medical-liability problem but they would have preferred to also pass legislation with a cap on noneconomic damages.

Passage of the Senate medical-malpractice package now sets the stage for House/Senate negotiations on a final legislative response to this pressing issue. The governor has stated that if he is not satisfied with the final product, he will call the Legislature back into a special session.

AIF supports a comprehensive package of measures designed to alleviate Florida's medical-liability crisis including, most notably, a \$250,000 cap on noneconomic damages. Now is the time for the Legislature to act decisively to provide immediate and lasting relief.

SB 2242, sponsored by Senator Daniel Webster (R-Winter Garden), one of several bills designed to ensure greater accountability for existing and future charter schools, was read a third time on the Senate floor today and passed on a 39 to 0 vote. The House companion, HB 1279 sponsored by Representative Dennis Baxley (R-Ocala), will be heard by the House Appropriations Committee this evening. It is expected to return to the House calendar tomorrow.

AIF supports the expansion and development of charter schools in Florida. Charter schools are a cost-efficient and educationally effective way to improve the quality of education in the state.

SB 1214, sponsored by Senator Alex Villalobos (R-Miami) and Senator Lesley Miller (D-Tampa), gives the attorney general independent authority to commence a civil action, or other appropriate relief, against any person or group that allegedly practices discrimination. Today, the bill was read a second time, an amendment was introduced and is pending. The House companion, HB 215, sponsored by Representative Jeff Kottkamp (R-Cape Coral), will be heard before the House Appropriations Committee today and is expected to move quickly to the House calendar.

Although these bills are well intended, AIF does not support them because it creates another layer of litigation in an area already well protected by a myriad of state and federal laws and private causes of action.

SB 2062, sponsored by Senator Tom Lee (R-Brandon), increases the total amount of corporate-income-tax credits for private school scholarships that may be granted during each state fiscal year. Today, the bill was read a second time with no amendments added.

Educational enhancement is necessary for a higher skilled workforce. AIF supports an expansion of corporate tax credits and state grants for opportunity scholarships. These programs give parents meaningful choice for the education of their children. Furthermore, such legislation promotes greater competition, which has a beneficial effect on the quality of public schools.

HB 1839, sponsored by the House Finance and Tax Committee and Representative Randy Johnson (R-Winter Garden), updates the Florida Income Tax Code to reflect 2002 changes to the U.S. Internal Revenue Code. Today, the bill was read a second time with no amendments added. A similar bill, SB 1002, sponsored by Senator Walter Campbell (D-Tamarac), passed out of the House and Finance Committee on April 7 and was assigned to Appropriations, where it has yet to be heard by this committee. In due course, however, it may be waived out of committee and placed on the Senate calendar.

AIF supports “piggybacking” of state income tax laws on the Federal IRS Code, as it simplifies compliance costs for corporations doing business in Florida.

Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

- For more information on all of the important legislative information concerning the business community, go to our “members only” Florida Business Network web site at <http://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.