

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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FROM THE WEEK OF APRIL 3 – APRIL 7, 2006

Note: The following is an abridged report of this week's major business bills. We have conveniently included links to our Daily Briefs which provide in-depth coverage on these issues and more. These can be accessed by clicking on any particular date of interest located in the left hand margin.

GUNS IN THE WORKPLACE

On Tuesday, April 4th the House Judiciary Committee heard HB 129 by Rep. Dennis Baxley (R-Ocala), which has commonly become known as the "guns in the workplace" bill. At the outset of the meeting, Chairman David Simmons (R-Altamonte Springs) reminded the committee that this was the sixth time that this bill had been on the committee's agenda and all the interested parties had been working to form consensus during those weeks.

Chairman Simmons presented a strike all amendment which was adopted by the committee unanimously. The bill passed the committee by a vote of 8-2, with Representative Jack Seiler (D-Pompano Beach) and Representative Curtis Richardson (D-Tallahassee) voting against the bill.

The bill is next referred to the House Agriculture Committee and the House Justice Council. The Senate companion, SB 206, has not yet been heard in any of its committees of reference.

To read the full report on what happened during the meeting please refer to the April 4th edition of AIF's Daily Brief.

AIF opposes legislation that prohibits businesses from enforcing or maintaining policies that ban guns in the workplace. Employers should be allowed to establish these types of policies and exert their rights as property owners. Maintaining a safe work environment is paramount for the longevity of any employer in Florida. We continue to be opposed to the bill even with today's amendment.

LEGAL REFORM

On Tuesday, April 4th the House Health Care General Committee passed HB 1592 by Representative Fred Brummer (R-Apopka) by a vote of 7 - 1. The bill requires out of state expert witnesses in medical malpractice cases to obtain an expert witness certificate from the Board of Medicine before they can testify as an expert witness. The bill also outlines that once certified, expert witnesses may be subject to discipline by the State Board for false, fraudulent or misleading testimony. There were four amendments adopted to the bill which were all supported by the sponsor.

AIF supports legislation aimed at regulating expert medical witnesses. Achieving this type of oversight will bring about increased reasonableness, fairness, and predictability to our state's legal system.

On Wednesday, April 5th the Florida Senate considered SB 124 Relating to Sovereign Immunity for Law Enforcement by Senator Bill Posey (R-Rockledge) on second reading. The bill is part of the tort reform measures that AIF and the Florida Coalition for Legal Reform have supported since last year. This particular bill provides incentives for law enforcement agencies to adopt a standard policy for high speed chase events in order to have immunity from liability for potential injuries to third parties who may be hurt while not directly involved in the pursuit. The bill applies only to forcible felonies.

On Thursday, April 6th the bill was passed unanimously by the Senate, but not before some amendments were defeated. Senator Gary Siplin (D-Orlando) offered a series of amendments which would have required every law enforcement agency in the state to provide annual reports to the Senate President, Speaker of the House, and Governor detailing the number of high-speed pursuits, number of injuries, as well as other data relating to these types of pursuits. In addition, Senator Siplin sponsored an amendment which would have required each law enforcement agency in the state to submit in writing their specific policies for high-speed pursuits. The bill's sponsor, Senator Posey, debated against the amendments stating that this would result in increased bureaucracy and high costs because there are over 1,000 law enforcement agencies in the state. He further suggested that if Senator Siplin felt this strongly about his proposals he could sponsor a bill that would implement these requirements. SB 124 is now in House messages.

AIF strongly supports SB 124. The identical House companion, HB 199 by Representative Pat Patterson (R-DeLand) is working its way through the committee process and is next scheduled to be heard by the House Judiciary Appropriations Committee.

TAXATION

On Tuesday, April 4th SB 1206 by Senator Jeff Atwater (R-North Palm Beach) received a favorable vote from the Senate Committee on Government Efficiency Appropriations today. This is the "Florida Manufacturing Global Competitiveness Act." It expands the sales tax exemption from a partial to a full exemption for machinery and equipment used by expanding facilities as long as they increase input by 10%. Currently, the machinery

and equipment is exempt from sales tax in excess of \$50,000. It also expands the sales tax exemption to machinery and equipment used by expanding businesses that manufacture tangible personal property pursuant to federal procurement contract.

SB 1206 now goes before the Senate General Government Appropriations Committee.

AIF supports eliminating the requirement that businesses pay the first \$50,000 in sales taxes per calendar year on manufacturing inputs. Eliminating this requirement would level the playing field for Florida manufacturers and would improve Florida's ability to compete for higher paying jobs, which would lead to an overall net increase in state revenues.

The Senate Government Efficiency Appropriations Committee approved SB 962 by Senator Mike Fasano (R-New Port Richey) on Tuesday, April 4th. This bill gives a sales tax exemption for machinery and equipment predominately use for research and development. The bill now goes to the Senate Transportation and Economic Development Appropriations Committee.

AIF supports removing taxes on machinery and equipment used for research and development because it is sensible tax policy and would improve Florida's chances of recruiting and retaining the most advance research and space facilities in the country.

Also on Tuesday, April 4th the House Fiscal Council passed HB 691 by Representative Joe Negron (R-Stuart) by a 19-3 vote. This legislation gives a one week holiday from sales tax for any personal item costing \$5,000 or less. If passed, this would be the largest tax break in Florida's history.

AIF supports this bill. The timing of the sales tax holiday would give parents a chance to purchase a computer for their child before they head back to school or allow them to purchase home improvement items such a refrigerator, washer or dryer. This type of sales tax holiday would provide a spark for Florida's economy.

The Senate Committee on Governmental Efficiency Appropriations passed SB 714 by Senator Jeff Atwater (R-North Palm Beach) by a 5-1 vote on Tuesday, April 4th. This is the repeal of the intangible personal property tax. Its House companion, HB 209, has passed the House and is in Senate messages.

AIF supports the repeal of the intangible tax. It is wrong to penalize businesses and individuals who save or invest their money. We need to make Florida competitive with other states by removing this insidious tax.

PROPERTY INSURANCE

On Wednesday, April 5th the Senate Banking and Insurance Committee was supposed to spend most of its allotted time discussing SB 1980 Relating to Property Insurance by Senator Rudy Garcia (R-Miami) during its meeting this afternoon. Instead it was forced to temporarily pass Senator Garcia's bill.

Florida's property insurance market is facing a critical crisis as a result of the recent barrage of hurricanes hitting our shores. Citizen's Property Insurance Company, the insurer of last resort for many Floridians, is facing billion dollar deficits. As a result the legislature has made dealing with the complex issue one of its top priorities. Some of the reforms in SB 1980 include:

- Makes ineligible for coverage homes and other specified residential property valued at \$1 million or more, effective January 1, 2007, with certain exceptions.
- Requires the Financial Services Commission (Governor and Cabinet), rather than the Office of Insurance Regulation (OIR), to approve Citizens' plan of operation.
- Requires Senate confirmation of the Executive Director of Citizens.
- Requires Citizens to have an internal auditor who must submit an annual report to the board, the Financial Services Commission, and the Legislature.
- Requires OIR to do a market conduct examination of Citizens every two years.
- Requires the Auditor General to conduct an operational audit of Citizens every three years.

AIF opposes a command and control approach to insurance regulation. Attempts to artificially strangle price increases only hasten the demise of a healthy market. Government control must be abandoned in favor of a market-based effort to revitalize the private property insurance market.

JESSICA LUNSFORD ACT

The Senate Committee on Governmental Oversight & Productivity approved SB 2280 by Senator Nancy Argenziano (R-Crystal River) on Tuesday, April 4th. This legislation makes changes to last year's Jessica Lunsford Act with regards to the background screening of non-instructional contractors. There was a strike everything amendment that incorporated additional changes with regards to the Department of Law Enforcement. The additional language authorizes the Florida Department of Law Enforcement to retain fingerprints submitted by the school districts and search for sexual predators and sexual offenders. School districts may participate in the search process done by FDLE. Among some of the provisions still found in the amended legislation are:

- Continuation of Level 2 background screening for certain school contractors
- A list of offenses that disqualifies a contractor from having access to school grounds when students are present
- Immunity from civil and criminal liability for those persons who share Level 2 background check information in good faith
- Caps fees of Level 2 background checks at no more than 30% of total state and FBI costs

- Requires FDLE to implement a system for school districts to share results of Level 2 background checks

The bill now goes to the Senate Education Appropriations Committee.

AIF supports legislation to make the implementation of the Jessica Lunsford Act workable for those companies that have working relationships with school districts while upholding the integrity of the original law to protect our children from sexual predators.

PRIVATE PROPERTY RIGHTS

On Wednesday, April 5th HB 1567, HJR 1569 and HJR 1571 by Representative Marco Rubio (R-Miami) were heard on second reading on the floor of the House. These bills are the work product of the House Select Committee to Protect Private Property Rights.

Representative Rubio stated that the bills were created in response to the United States Supreme Court decision in *Kelo v. City of New London*. Representative Rubio noted that the Select Committee engaged in a deliberative process that lasted over 6 months in drafting these bills.

Representative Dean Cannon (R-Winter Park) presented the bills to the House. Representative Cannon observed that HB 1567 essentially prohibits the transfer of property taken under the power of eminent domain unless the property is transferred for use by a common carrier; for transportation purposes; for public utilities and infrastructure; or for the provision of services and goods to the public. HB 1567 allows taken property to be transferred to a private entity after the governmental entity has held the property for 5 years and public notice and competitive bidding has occurred. The bill also restricts the power of eminent domain in community redevelopment areas. Additionally the bill enhances notice requirements for takings and raises the burden of proof to demonstrate that a taking is to eliminate a threat to the public health or safety.

Representative Cannon also provided explanations for HJR 1569 and HJR 1571 which are the proposed Constitutional amendments to be submitted to the citizens for approval. HJR 1569 contains essentially the same sustentative language contained in HB 1567. HJR 1571 allows for the portability of the “Save Our Homes” constitutional amendment which provides property tax protections when a person’s homestead property is taken by eminent domain.

On Thursday, April 6th the House approved each of these three bills on final passage. HB 1567 was passed unanimously with members on both sides of the aisle praising its provisions. HJR 1569 faced more opposition and passed by a vote of 92-23. Rep. Jack Seiler (D-Pompano Beach), Rep. Arthenia Joyner (D-Tampa), Rep. Tim Ryan (D-Dania Beach) and Rep. Ron Greenstein (D-Coconut Creek) each spoke against HJR 1569, expressing concern that if certain measures contained in the Joint Resolution prove to be unworkable, the Legislature cannot readily amend the Constitution. HJR 1571 fared much better and passed the House unanimously. All three bills are now in Senate messages.

While AIF strongly supports efforts to boost economic development throughout the state, these projects should not proceed through the sacrifice of existing businesses. AIF supports HB 1567 and HJR's 1569 and 1571, which ensure that when local government takes private property through eminent domain there are proper limitations and procedures in place to protect the rights of private property owners.

MANDATORY GENERATORS FOR GAS STATIONS

On Tuesday, April 4th the Senate Committee on Community Affairs temporarily passed SB 528 by Senators Steve Geller (D-Hallandale Beach), Jeff Atwater (R-North Palm Beach) and Alex Diaz de la Portilla (R-Miami). This proposed legislation mandates generators at gas stations at a ratio of one for every five stations owned by a company. It also mandates for wiring new or substantially renovated facilities for alternative power sources. Chairman Mike Bennett (R-Bradenton) asked the sponsor to consider another method of providing generators to gas stations in affected areas after a disaster and therefore suggested that the bill be temporarily passed until the sponsors can come up with an alternative solution.

We expect to see an amendment sometime next week which should incorporate Chairman Bennett's request.

AIF opposes government mandates that require gas station owners and operators to have generators at gas stations and believes that the free market place will find solutions to the problem of power outages resulting from hurricanes or other natural disasters.

ENERGY

On Monday, April 3rd the Senate Environmental Preservation Committee passed SB 888 by Senator Lee Constantine (R-Altamonte Springs). This comprehensive piece of legislation establishes an Energy Plan for the state of Florida and encompasses many of the recommendations of the Governor's recent energy initiative. The bill creates a Florida Energy Commission and establishes membership and duties. It also provides grants to promote renewable energy technologies and rebates for certain appliances and solar installations. SB 888 also streamlines and shortens time frames for the siting of power plants, nuclear plants and transmission lines. Finally it creates the "Food to Fuel" program to provide grants to promote use of Florida grown and produced biomass to produce energy.

SB 888 will now be heard by the Senate Transportation and Economic Development Appropriations Committee.

AIF is closely monitoring this landmark piece of legislation. As the bill has moved through the process some amendments have been added that raise some concern for utility companies. AIF believes the best way to deal with the state's energy needs is through the use of incentives and the removal of regulatory barriers, rather than using new taxes and mandates.

INFORMATION TECHNOLOGY

On Tuesday, April 4th the House State Administration Appropriations Committee passed HB 7185 by the House Governmental Operations Committee by a vote of 5-2. This is the House's version of the procurement bill on outsourcing contracts that is the companion to SB 2518 by Senator Nancy Argenziano (R-Crystal River). The bill creates a governor appointed seven-member Council on Efficient Government within the Department of Management Services (DMS). The Council reviews, establishes policy and consults on outsourcing projects initiated by state agencies. Cabinet agencies are expressly included in these requirements.

HB 7185 will now be heard by the House State Administration Council.

As was mentioned above, SB 2518 the Senate companion was also considered on Tuesday. It was unanimously passed today by the Senate Ways and Means Committee. SB 2518 will now be considered on the floor of the Senate.

Frank Meiners testified in support of both bills on behalf of AIF's newly created IT Council.

AIF supports legislation aimed at improving the procurement process for outsourcing contracts. Establishing strict norms and procedures should go a long way in benefiting companies whose main business is to provide these types of services for state government.

BUSINESS REGULATION

On Monday, April 3rd the Senate Regulated Industries Committee unanimously passed SB 1336 Relating to Building Codes/Wind Design by Senator Lee Constantine (R-Altamonte Springs). This bill authorizes the Florida Building Commission to change the wind design standards contained in the Florida Building Code and to identify within the code those areas in the panhandle that are subject to the windborne debris requirements of the code. The bill also stipulates that new windborne debris requirements for the Panhandle region may not take effect for six months following completion of rule-making or May 31, 2007, whichever is sooner.

SB 1336 has passed all its committees of reference and will now be heard on the floor of the Senate.

AIF supports the efforts of Senator Constantine to address this very important issue. Although in the short term this bill will probably add to the cost of a new home, this increase in cost could be offset by the benefit of reduced hurricane-related property damage.

ECONOMIC DEVELOPMENT

On Tuesday, April 4th the Senate Education Appropriations committee unanimously passed SB 2580 Relating to Aerospace Industry by Senator Mike Fasano (R-New Port Richey). This bill will create a new Space Florida entity which will bring an increase in the space research and development taking place in Florida. The bill also defines that Space Florida will be located in the vicinity of the current location of Kennedy Space

Center, requires Space Florida to create a business and marketing plan, and expands the exemption sales and use tax on certain machinery and equipment. There was an amendment offered to move the board of the new space entity from an eight member board to a seven member board. This amendment passed, and will make board votes easier by assuring that there will never be a tie. Several people stood to speak in support of the bill including Frank Meiners on behalf of AIF's **IT Council**.

Also on Tuesday, Representative Leslie Waters (R-St. Petersburg) presented HB 1489 Relating to State's Aerospace Industry during the House Fiscal Council meeting. Unlike in the previous committee, Representative Waters faced no opposition over the bill. It is similar to the Senate companion, SB 2580, in that it creates Space Florida as a new entity, draws out certain proximity to Kennedy Space Center as the location for Space Florida, and expands tax exemptions. There were two amendments adopted one of which was technical, and the other was explaining appropriations to NASA, for commercial spaceports, and for operational needs. The House version does differ from its Senate companion in that it does not reduce the number of board members from 8 to 7.

AIF supports legislation that will keep Florida in the forefront of space exploration for the country, and adds great economic growth to Florida through job growth and tourism. The legislation will bring economic development to the state through increased job availability, and tourism.

The House Finance and Tax Committee unanimously passed HB 7055 by the House Economic Development, Trade and Banking Committee on Tuesday, April 4th. Those businesses interested or involved in enterprise zones should take note that while the measure prevents some double dipping tax exemption situations that were glitches in last year's substantive re-enactment of the enterprise zone act, it also provides a couple of needed changes to help business. This was the bill's first hearing and it now must pass the House Transportation and Economic Development Appropriations Committee and the Hosue Commerce Council before it can go to the House floor. The companion bill, Senate bill 1132 by Senator Jim King (R-Jacksonville), has passed two committees and also has two more stops to go.

AIF supports legislation which strengthens Florida's Enterprise zone laws. Enterprise zones help create jobs and enhance good economic growth for Florida, especially in areas of the state that historically have not attracted industry or economic activity, by providing incentives and tax breaks to businesses that relocate to these zones.

ETHICS & ELECTIONS

On Tuesday, April 4th the House Transportation and Economic Development Appropriations Committee passed HB 773 Relating to the Petition Process by Representative Dudley Goodlette (R-Naples). Representative Goodlette presented a strike-everything amendment to the bill, which follows the language in SB 720 by Senator Bill Posey (R-Rockledge). The original bill included some very onerous limitations on those persons who collect petition signatures; the strike all does not. Additionally, the original bill invalidated petition forms that did not comply with the law;

however, the strike all gives voters the right to correct information. The strike all also eliminates the new criminal penalties contained in the original bill.

Representative Goodlette indicated that the significant changes to the bill were precipitated by the Senate's failure to pass a similar bill – SB 1244 by Senator JD Alexander (R-Lake Wales). SB 1244 was strongly opposed by a wide variety of citizen and private groups. This strong opposition is what prompted Senator Posey to file his version of the bill, SB 720.

HB 773 has one more committee of reference, the State Administrative Council.

AIF supports HB 773 and the efforts of Rep. Goodlette and Senator Posey to draft language which addresses the need for regulation in the petition gathering process, but does so without onerous provisions and criminal penalties.

ENVIRONMENT

The Senate Committee on Government Efficiency Appropriations unanimously approved SB 1092 Relating to Brownfields by Senator Lee Constantine (R-Altamonte Springs) on Tuesday, April 4th. This bill increases tax credits for businesses that voluntarily clean up designated brownfield sites. Senator Bill Posey (R-Rockledge) offered an amendment, which was adopted, that would cap tax credits for site rehabilitation at \$500,000 if the property is going to be used for affordable housing.

AIF supports legislation to increase existing tax credit provisions which will create additional incentives for businesses to voluntarily cleanup eligible contaminated sites. Cleaning up Brownfields increases future job opportunities and economic growth for area residents, while at the same time restoring a region's environmental integrity.

GROWTH MANAGEMENT

On Tuesday, April 4th the House Growth Management Committee passed HB 1431 Relating to Impact Fees by Representative Larry Cretul (R-Ocala) by a 7-2 vote. This bill creates a new section of Florida statute called the "Impact Fee Act." Impact fees are a total or partial payment to counties, municipalities, special districts, and school districts for the cost of additional infrastructure necessary as a result of new development. Impact fees are tailored to meet the infrastructure needs of new growth at the local level. As a result, impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. The bill provides a framework for the creation of impact fee ordinances and the levying of impact fees. The bill provides legislative findings and legislative intent regarding the need for and use of impact fees. The bill provides definitions for the applicable terms within the "Impact Fee Act." The bill requires that impact fees:

- Be a one time charge, although partial payments may be collected over time during the course of a development.
- Be used for capital outlay projects only.
- Represent a proportionate share of the cost of the project that is needed to serve new development.

HB 1431 will now be heard by the House State Infrastructure Council.

HB 1431's Senate companion, SB 1196 by Senator Lee Constantine (R-Altamonte Springs), was also passed unanimously by the Senate Community Affairs Committee on Tuesday. The Senate version is very similar to the House work product and will now be heard by the Senate Government Efficiency Appropriations Committee.

AIF supports legislation aimed at codifying the many confusing aspects of Florida's impact fee process. Currently, impact fees are governed by case law instead of in statute. Establishing one location for these regulations makes sense.

WORKERS' COMPENSATION

This was a busy week for workers' compensation in the Florida Legislature. On Wednesday, April 5th the Senate Banking and Insurance Committee unanimously passed SB 2118 Relating to Workers' Compensation Joint Underwriting by the Banking and Insurance Committee. The House Insurance Committee, also passed their version of the bill – HB 7241 by Representative Kim Berfield (R-Clearwater) on the same day.

AIF supports legislation that assists in fostering a stable workers' compensation system that makes coverage for all Florida employers available and affordable. We will continue to follow and provide updates on this legislation critical to the continued success of the workers' compensation system in this state.

Also on Wednesday, April 5th the House Insurance Committee heard HB 141 Relating to Workers' Compensation for First Responders by Representative Sandy Adams (R-Oviedo). The idea of this bill has been around since the national tragedy of 9/11. The original bill sought to provide certain first responders such as firefighters and police officers with additional benefits in the event of workplace injury.

AIF strongly opposes any legislation that makes changes to Chapter 440, Florida Statutes. Such changes will disrupt the delicate balance of the workers' compensation system which, since the 2003 reforms, has brought increased availability and affordability of coverage for all Florida businesses.

BANKING AND INSURANCE

On Wednesday, April 5th the House Insurance Committee unanimously passed HB 161 Relating to Mold Remediation and Assessment by Representative Carl Domino (R-Palm Beach Gardens). Currently, there are numerous companies in Florida that hold themselves out to be mold assessors or mold remediators or conduct mold related services. There is no licensure or regulatory requirements to be a mold assessor or mold remediator.

This bill provides education guidelines and certification for those who engage in business as a mold assessor or mold remediator. It requires an assessor to "maintain general liability and errors and emissions insurance of not less than \$250,000." It requires a remediator to maintain general liability insurance policy of not less than \$500,000 with specific coverage for mold related claims. The bill requires that a contract to perform

mold assessment or mold remediation must be signed or otherwise authenticated by the parties.

Home inspectors are also not regulated. The bill states that “a person may not work as a home inspector unless” that person has successfully completed a course of study of not less than 60 hours....and passes a psychometrically valid examination in home inspections. The course of study “must be accredited by a nationally recognized third-party independent accrediting entity.”

AIF supports legislation that establishes guidelines for businesses that practice in the field mold assessment and remediation. These guidelines will protect both consumers and businesses from those who practice fraudulently.

WORKFORCE DEVELOPMENT

The Senate Commerce and Consumer Services Committee unanimously passed SB 2084 by Senator JD Alexander (R-Lake Wales) on Wednesday, April 5th. This bill is the 21st Century Technology, Research, and Scholarship Enhancement Act announced by Governor Jeb Bush in January of this year. The Act provides for the creation of the Florida Technology, Research, and Scholarship Board to guide the establishment of Centers of Excellence at state universities and the attraction of world class scholars through the 21st Century World Class Scholars Program. The bill provides \$50M in appropriations for the Centers of Excellence and \$50M for the World Class Scholars program.

AIF supports this investment in workforce development as it helps attract industry to the state and diversifies Florida’s tax base.

UTILITIES AND TELECOMMUNICATIONS

On Wednesday, April 5th the House Utilities and Telecommunications Committee unanimously approved HB 1259 by Representative Marti Coley (R-Marianna). This bill is better known as the "Florida Electric Transmission Line Siting Act." This legislation encompasses many of the recommendations made by the Florida Energy Forum to the Transmission Line Siting Act (TLSA). These changes include:

- Simplifying and streamlining completeness and sufficiency procedures
- Reducing mandatory hearings
- Revising time limits
- Clarifying who may be an applicant
- Clarifying comprehensive planning and zoning issues

The purpose of these changes is to improve the efficiency of the TSLA and to clarify provisions that will expedite transmission line licensing, thereby ensuring faster development of more reliable electric transmission infrastructures.

This bill is in many ways a very technical bill; however these changes are necessary and if adopted will shorten the time period to site power lines by as much as 5 months!

AIF supports this legislation as it is a part of the energy plan for the State of Florida. The use of incentives and the removal of regulatory barriers is the best way to ensure that Florida takes the necessary steps to improve its energy infrastructure.

- 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.