

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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Wednesday was an incredibly busy day at the Capitol. Most of our attention was focused on dealing with an effort to undo the repeal of Joint and Several Liability. The House Constitution and Civil Law Committee debated HB 733, which effectively does away with the Florida Supreme Court's "Fabre" decision. Doing away with "Fabre" would be a significant blow to Florida's legal climate.

Other priority legislation considered today included regional transportation authorities in the Senate Transportation Committee and alternative energy policies in the House Energy Committee.

Legal Reform

The House Constitution and Civil Law Committee took up HB 733 Relating to Apportionment of Damages by Representative Mitch Needelman (R-Melbourne). This bill also known as the "Fabre Fix" would essentially undo what the business community achieved with the repeal of Joint and Several liability during last year's session. In order for juries to fairly assign responsibility in a lawsuit they must be able to consider all parties - not just the ones selected by plaintiff attorneys. HB 733 would undo the Florida Supreme Court's "Fabre" decision, which requires that all possible parties be included in the jury verdict form.

The committee room was packed with several representatives from the business community and from the trial bar. Each side presented their arguments to some very inquisitive committee members. The bill was ultimately TP'ed (meaning that it was temporarily passed) after being amended because both committee members and representatives of the business community pointed out several inconsistencies with the language, mainly how to deal with parties that have immunity or cannot be found. Representative David Simmons (R-Altamonte Springs) offered the majority of the amendments, admitting that even his language was not perfect and that he would like all parties involved to work together to find some common ground between getting rid of the "Fabre" decision and adopting what the bill would do which is limit the apportionment of fault, and therefore, the apportionment of damages, to only those parties named in the civil proceeding.

Chairman Marcelo Llorente (R-Miami) informed the Committee and audience members that the bill would be first on the agenda next week. HB 733's Senate companion, SB 1558 by Senator Jeremy Ring (D-Margate) will most likely also be heard next week in the Senate Judiciary Committee.

AIF opposes HB 733 and its undoing of the “Fabre” decision. Fair distribution of fault cannot be achieved if a jury cannot consider the actions of all parties involved. We urge all AIF members to contact the Committee and express their opposition to this bill.

Transportation

The Senate Transportation Committee passed two complimentary measures Wednesday morning addressing regional transportation authorities. SB 506 by Senator Mike Fasano (R-New Port Richey) would create the Tampa Bay Regional Transportation Authority. The purpose of the authority is to take a more regional approach to transportation planning in west central Florida.

The counties under the authority's jurisdiction would include Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas and Sarasota. The bill describes appointments to the authority as area business people as well as local elected officials, a metropolitan planning organization member and participation from the Florida Department of Transportation (FDOT).

It is hoped the new entity will be able to overcome the parochial pitfalls of addressing infrastructure needs on a county-by-county basis. Included in the scope of the authority's purview would be rapid bus transit, commuter and heavy rail systems and limited access expressways and more. The ability to enter into public-private partnerships and a greater chance as a regional organization to attract federal matching dollars are some of the more dynamic characteristics of the proposed authority.

A strike all amendment was adopted that removed language from the senate bill, which would have abolished the Tampa-Hillsborough Expressway Authority. This controversial amendment called into question the operation of that entity, but the bill sponsor agreed to make that argument a separate issue and address it in separate legislation.

Speaking of related separate issues, Senator Daniel Webster followed the Tampa Bay authority bill with one of his own that dealt with the overview of authorities on a statewide basis. SB 1454 addresses the governance of transportation authorities of all kinds and provides that the Florida Transportation Commission will be responsible for monitoring and conducting periodic reviews of all state transportation authorities.

Both bills passed unanimously and will next be heard by the Senate Community Affairs Committee.

AIF supports the ability of multi-county areas in Florida to enter into regional transportation authorities, empowered to implement infrastructure improvements and to increase consideration for vital transportation corridors, seaports, airports and other regionally significant business centers.

Legal and Judicial

The Senate Transportation Committee also considered SB 320 Relating to Trespass and Railroads by Senator Jim King (R-Jacksonville). The bill simply provides reasonable limitations to signage requirements on Florida's 2,788 miles of railroad right of way. Existing law requires trespassing signage every 500 feet along that right of way. The bill would clarify the understanding that trespassing on railroad property exists regardless if the right of way is physically posted as a no trespassing area.

Unfortunately, the Academy of Florida Trial Lawyers, were temporarily effective in opposition to this bill. They provided a parade of horrors, accusing railroads of attempting to avoid liability issues. The meeting concluded with a tie vote, which would have killed the bill. However, Senator Alex Villalobos (R-Miami) moved to reconsider the vote by which the bill failed, therefore allowing another hearing to work on a compromise to ameliorate critical elements of this important issue.

AIF supports legislation that helps keep our railroads safe from trespassing and eliminates the unrealistic requirement to post warnings every 500 feet. Florida has thousands of miles of railroad tracks, many of which go through very remote and inaccessible areas. We hope to continue the dialogue on this important issue and urge the Committee members to take this issue up at the next committee meeting.

Property Tax Reform

The House Governmental Efficiency and Accountability Council voted 10 to 5 in favor of introducing Proposed Committee Bill (PCB) GEAC 07-01 Relating to Ad Valorem Tax Millage. The focus of the PCB is driven by the fact that Floridians are having problems with an inequitable property tax system.

Representative Frank Attkisson (R-Kissimmee) described this bill as being “what things would have been like if things were normal”. Specifically, the bill establishes a roll-back in the millage limitation for ad-valorem (property) taxes levied by counties, municipalities and other special districts. The rolled-back rate would be established by using the millage rate in effect for the particular taxing authority in January 2001. The rolled-back rate is then adjusted by applying the Consumer Price Index. This roll-back in millage rates would not affect school boards or the payment of bonds.

The discussion and debate centered around such topics and concerns as: would local governments continue to provide the services currently provided, the impact on municipalities across the state, letting the market be the dictator of profit by not having a cap in place, and the potential of forcing local governments to have to make cuts in their budgets. Overall, there was a lot of concern about the Committee moving too fast on this issue. There was also some concern from committee members that there was not enough background information to decide what the right course of action would be.

At this time AIF is reviewing all the property tax reform proposals being debated and working on developing alternative solutions in order to find the right combination of policy decisions that will reduce property taxes for businesses and citizens, while at the same time protecting the vital services provided by local governments.

Environmental

The House Committee on Environmental Protection considered 3 proposed committee bills today. First was Proposed Committee Bill (PCB) ENRC 07-02 Relating to Solid Waste. This bill makes mostly technical changes to the 1988 Solid Waste Management Act. In general, the changes aim to correct cross-references and delete certain obsolete provisions and dates from the solid waste management statutes. The Committee unanimously agreed to introduce the PCB.

The next bill considered was PCB ENRC 07-05, the Florida Climate Action Partnership. This bill establishes a commission that will host a series of meetings to develop recommendations for how the state addresses the topic of global warming. This twenty-two member Commission entitled the Florida Climate Action Partnership (FCAP) will address climate change mitigation and serve as a catalyst for affected parties within the state regarding such issues. The commission membership will consist of appointees from the Governor, President of the Florida Senate, Speaker of the Florida House of Representatives and Commissioner of Agriculture as well as the Commissioner of Agriculture or designee and Chief Financial Officer or designee.

The FCAP is directed to seek partners in all sectors of Florida's economy, conservation community, academia, and government at all levels. They are to identify a range of opportunities to reduce emissions without limitation, the following: residential users, commercial users, industry and manufacturing, the tourism and hospitality industries, agriculture, the transportation industry, the construction industry, marine industries, ports and the shipping industry and others. The FCAP and its partners shall develop principles and recommendations to guide the formulation of a regulated economy-wide, market-driven approach to climate protection for all economic sectors of the state as well as short-term and long-term greenhouse gas reduction goals. Once again the Committee agreed to introduce the PCB and assign it a bill number.

The last proposed committee bill was PCB ENRC 07-04, the Florida Gold Star Permitting Act. This proposed committee bill came from Idea # 74 of the “100 Innovative Ideas” created by Speaker Marco Rubio (R-Miami) and the Florida House of Representatives. What we believed to be an “incentive based permitting” bill is now a bill that we cannot support. The bill in its current form gives very little incentives for short-form permit renewals, expedited permits and longer permits in some cases. Because of definition problems, we are not sure if any company will ever be able to qualify for the new “Gold Star Permitting” status. Keyna Cory, Chief Lobbyist for AIF, suggested to the Committee that they look at HB 297 Relating to the Incentive-based Permitting Act by Representative Debbie Boyd (D-High Springs) - a similar bill that is being supported by AIF and other organizations that gives workable incentives. After receiving testimony from other organizations about the problems with the Florida Gold Star Permitting Act, it was “TP’ed” or “temporarily passed” so that interested parties could work on new language. However, within the hour, Environment & Natural Resources Council Chair, Representative Stan Mayfield (R-Vero Beach), appeared and requested that the committee reconsider their decision to TP the bill. Although the committee members were reluctant, they passed the bill so that it can be heard in the House Environment & Natural Resources Council next week. Being one of the “100 Innovative Ideas” has caused the bill to be on a fast track for passage. Environmental Protection Committee Chair, Representative Trudi Williams (R-Ft. Myers) called an informal meeting this afternoon of interested parties to try and reach an agreement on the language.

AIF opposes the Florida Gold Star Permitting Act as it currently reads. We would like to thank Representative Williams for her willingness to work on this issue and look forward to our continued negotiations on this legislation.

Energy

The House Energy Committee took up Proposed Committee Bill (PCB) ENRC 07-01, which addresses energy efficiency and alternative fuels. The PCB is intended to offer incentives to both consumers and businesses to use and produce alternative fuels. Consumer incentives range from tax exemptions on property and renewable energy source devices, to the Energy Efficient Motor Vehicle Sales Tax Refund Program, which refunds purchasers of hybrid or qualified alternative fuel motor vehicles up to \$15,000. This bill also creates incentive for businesses that produce ethanol and biodiesel in the form of tax credits.

The promotion of ideas involving energy efficiency and conservation attempts to create awareness throughout the state of Florida. This effort is seen in the designation of October as “Energy Efficiency and Conservation Month”.

The bill mandates that all county, municipal, and school district buildings be constructed to meet LEED (Leadership in Energy and Environmental Design) standards.

An amendment, important to AIF members, is currently being discussed between the Committee and Council. This amendment would provide a new definition for renewable diesel to match the US Environmental Protection Agency (EPA) definition. The new definition would allow the biodiesel to be made with biofuel materials using more conventional oil and gas refining equipment and technologies.

AIF is closely monitoring the progress of this piece of legislation. Energy issues are critical to the success of Florida's business community. Any attempt to encourage the development of alternative fuels should be viewed positively. The bill's fiscal impact, which is currently estimated at approximately \$100 million dollars, is somewhat problematic - especially given the recent indications that the State's revenues are much lower than originally expected.

Taxation

The House Agribusiness Committee unanimously passed HB 245 Relating to Sales Tax Agricultural & Farm Items by Representative Baxter Troutman (R-Winter Haven). The bill establishes a sales tax exemption for low volume irrigation and micro-irrigation systems and their component pieces. In his presentation of the bill, Representative Troutman stated that the bill would address three critical needs:

1. Encourage farmers to purchase and utilize highly efficient, low volume irrigation systems;
2. Increase water conservation; and
3. Current users of these systems are encouraged to utilize these systems by the state, but are penalized due to the taxation of the systems and products.

During discussion on the bill Representative Martin Kiar (D-Parkland) encouraged the entire committee to support the bill and stated he wanted to publicly go on record supporting the bill.

Stephen Shiver, on behalf of AIF, publicly waved his time in support. Ben Parks from the Florida Farm Bureau also waved his time in support.

HB 245's next committee stop is the House Council on Environmental and Natural Resources.

AIF supports legislation that establishes a sales tax exemption for low volume irrigation systems. Agriculture is one of Florida's largest industries employing more than 388,000 people and producing an excess of \$50 billion dollars in total sales.

Other Bills of Interest

The House Audit and Performance Committee unanimously passed HB 153 Relating to Ad Valorem Tax Date by Representative Jack Seiler (D-Pompano Beach). This bill amends section 195.052 FS and requires the Department of Revenue (DOR) to collect additional data relating to ad valorem taxes. The new data required includes the annual percentage increase in total non voted ad valorem taxes levied by each city, county, and local taxing authority; information on the distribution of ad valorem taxes levied among the various classifications of property; and the previous year's adopted millage rate, the current year's millage rate, and the current percentage increase in taxes levied above the rolled-back rate.

The bill also requires this data to be published, at a minimum, on the Department's website and the websites of all property appraisers if available.

Representative Seiler thanked the Department for working with him on the bill. There were no questions by the committee members and it passed unanimously.

HB 153 will now be heard by the House Policy & Budget Council.

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.