



# WEEKLY BRIEF

From the Week of March 8 – 12, 2010

Week two of the 2010 Legislative Session concluded with discussion on potential sources for new funding for the state in the form of Las Vegas-style destination facilities. The House Select Committee on Seminole Indian Compact Review heard presentations from representatives from the Las Vegas Sands Corporation and Amy Baker (the state's chief economist) on a proposal that would allow for the auction of new gambling licenses. The amount of revenue that could come from these new facilities is estimated at billions of dollars. According to Amy Baker, the state could see an additional \$1.5 to \$2.3 billion just from selling licenses. This would be in addition to any revenue from the Seminole Indian Gaming Compact, which is currently being negotiated with the Tribe.

A number of AIF priority bills saw action this week including some significant tort reform legislation in the form of HB 689 by Representative Gary Aubuchon (R-Cape Coral) – the “slip and fall” legislation. HB 689 will be considered on the floor of the House next Tuesday as well as HB 437 by Representative Eric Eisnagle (R-Orlando) Relating to Transparency in Private Attorney Contracting – Attorney General McCollum's top priority for this legislative session.

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## Legal & Judicial

On Tuesday, March 9th the House Criminal & Civil Justice Policy Council passed HB 689 Relating to Negligence Lawsuits by Representative Gary Aubuchon (R-Cape Coral) by a vote of 13-2. The bill has been dubbed the “slip and fall” bill as it primarily addresses whether a business knew that some condition existed on its property that could cause injury to its invitees. The bill requires a plaintiff to prove that a business had constructive knowledge of a “transitory foreign substance” in order to hold the business responsible for payment of damages. Florida is the only state that does not already have this requirement and the bill sponsor explained that it makes the cost of doing business higher in this state. This is a result of higher litigation costs arising without such reasonable standards in the law.

The only legislators voting against this bill were Representatives Adam Fetterman (D-Port Saint Lucie) and Perry Thurston (D-Ft. Lauderdale). Representative Fetterman also sponsored an amendment to the bill which could have created greater duties of record keeping on Florida businesses. After lengthy debate, though, he withdrew the amendment prior to a vote.

HB 689 is now ready to proceed to the House floor for final consideration.

**AIF SUPPORTS legislation which protects business owners from costly and frivolous litigation. Additionally, AIF salutes Representative Aubuchon for his leadership and commitment to reducing such litigation costs for Florida businesses.**

## Environmental

During the Senate Environmental Preservation & Conservation Committee's meeting on Tuesday, March 9th the committee was originally scheduled to take-up recycling legislation of great importance to AIF. However, Chairman Lee Constantine (R-Altamonte Springs) sponsor of SB 570 Relating to Solid Waste Recycling decided to temporarily postpone his bill until the next meeting. There are several issues in the current draft that are controversial. Chairman Constantine wants all interested parties to work out the differences before voting on the bill.

The following are the sections that are still being negotiated:

- Reporting requirements: The proposed committee substitute states that a business with 50 or more employees will have to report what they recycle to DEP. Senator Constantine told the committee that he would like to see the reporting requirement changed from every year to every two years and if a company reports its recycling efforts they will receive preference when bidding on state contracts;
- If the state does not reach a recycling goal of 45% by January 1, 2014, then DEP will conduct a report showing what the impact of a bottle bill and a landfill tipping fee would have on achieving the bill's recycling goal.
- Definitions in the bill; and
- Eliminating the current local government "pre-emption" on plastic bag regulation.

The proposed committee substitute still contains the creation of the Recycling Business Assistance Center. It also requires state agencies to lead the way by implementing recycling programs.

We expect that SB 570 will be considered in next week's committee meeting scheduled for Wednesday, March 17th.

**AIF looks forward to working with Senator Constantine on finding market-driven ways to reduce waste, reuse materials, and divert waste from our landfills. Florida has an opportunity to help create markets for recyclables and beneficial reuse of key materials. By creating markets for profitable materials, we can help create jobs.**

The Senate Select Committee on Florida's Inland Waters held their final meeting on Thursday, March 11th to hear recommendations & findings from public meetings held throughout the state. These public hearings were conducted to investigate the protection and restoration of Florida's springs and affiliated watersheds.

Since December 2009, the Select Committee held six public hearings. The hearings were conducted in Ocala; Palm Beach Gardens; Lake Mary; Wakulla Springs; Palatka and Punta Gorda, drawing hundreds of Floridians voicing their concerns on water issues. Chairman Lee Constantine (R-Altamonte Springs) explained to the committee that there was a broad spectrum of people attending the meetings and singled out Keyna Cory, Senior Lobbyist for AIF, as a regular attendee to each of the public hearings.



**Keyna  
Cory**

*To learn more about the Senate's Committee hearings, including their findings and recommendations, please refer to [Thursday's edition of the daily brief](#).*

**AIF has been closely monitoring the proposals coming out of this Select Committee in order to determine the impacts to the business community.**

## Ethics & Elections

The Senate Ethics and Elections Committee met Tuesday, March 9th and considered a significant election reform proposal on SB 880 Relating to Election Law Reform by Senator JD Alexander (R-Lake Wales). HB 1207, the House companion to SB 880, was subsequently passed on Wednesday, March 10th in the House Economic Development and Community Affairs Council.

A strike-all amendment to SB 880 reenacted the regulation of electioneering communications organizations in a form consistent with a recent federal court decision that struck down the old regulatory scheme on constitutional grounds. The amendment also establishes "affiliated party committees," commonly known as "leadership funds." These funds would remain under the control of the leaders of the heads of the majority and minority caucuses of each legislative chamber and would raise and spend money on behalf of candidates for election to their respective bodies.

Following its passage in the Senate Ethics and Elections Committee, SB 880 is scheduled for further consideration by the Senate Transportation and Economic Development Appropriations Committee. As a high priority bill for leadership in both chambers, its counterpart in the house (HB 1207) will likely be heard on the House floor to be voted on by all members.

**AIF SUPPORTS the enactment of Electioneering Communications Organizations (ECO) legislation that follows the guidelines established by federal courts. However, AIF will OPPOSE any such legislation that goes beyond these guidelines and thus infringes on the right of free speech per the First Amendment of the United States Constitution.**

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## Education

The House PreK-12 Education Committee met Wednesday, March 10th and heard HB 623 Relating to Instructional Materials for K-12 Public Education by Representative Rachel Burgin (R-Tampa). HB 623 looks to include flexibility for districts to purchase hardware in the instructional materials category. While opposed by textbook publishers, there was broad support for the bill by business groups, including testimony by **AIF's Vice President of Governmental Affairs Jose Gonzalez**. While some members expressed concerns about not wanting to delay the purchase of new math and science textbooks, and being sure districts continue to provide materials to students, the bill ultimately passed by a vote of 10-2.



**Jose  
Gonzalez**

HB 623 will now progress to the PreK-12 Appropriations Committee for further consideration.

**AIF supports the increase of technology use in K-12 public education to better prepare students for jobs in the future. In the 21st century's digital economy, such materials will provide our students with a competitive edge on a global scale.**

On Wednesday, March 10th the Senate Education Committee passed SB 4 Relating to Education Accountability by Chair Nancy Detert (R-Venice) which increases standards for high school graduation to include Algebra 2 and specific science courses. The bill also moves from the high school FCAT toward end of course exams in specific courses such as Algebra 2, Biology, and Chemistry. This was the second bill to be heard by the committee and there was little time left for debate on the bill after the more controversial teacher quality bill was heard; however Senator Don Gaetz (R –Destin), who served as chair of the committee while Senator Detert handled the bill, permitted lobbyist **Stacey Webb** to voice strong support on behalf of AIF. The vote fell largely along party lines and passed with 6 Yeas and 2 Nays.



**Stacey Webb**

SB 4 will now move forward to be heard by the Senate Policy and Steering Committee on Ways and Means.

**AIF SUPPORTS legislation that focuses on getting students prepared for more rigorous courses in high school and, thus, prepared for college and the workplace.**

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## **Growth Management**

The House Military and Local Affairs Committee met Wednesday, March 10th and considered **MLA 6**, a proposed committee bill (PCB) Relating to Growth Management and one of high importance to AIF. This bill provides a safety net for developers who have relied on certain provisions of last year's landmark growth management bill (SB 360), which is currently being challenged in state courts. Known as the "Community Renewal Act," SB 360 offered larger developments the option of avoiding the Developments of Regional Impact (DRI) process in certain densely populated areas, as defined by legislation. Should the challenge be successful and the bill be declared unconstitutional, numerous developers would face a regulatory nightmare for having followed the provisions of the bill, particularly as it relates to Developments of Regional Impact (DRI).

**MLA 6** has been worked on with developers as well as the DCA, and as **Department of Community Affairs (DCA) Secretary Tom Pelham** so indicated, enjoys a consensus of support. The bill passed unanimously, without public testimony and with no amendments. **Richard Gentry, Esq.** waived in support of the bill on behalf of AIF.



**Richard Gentry**

**MLA 6** has been filed as HB 7099 and will be referred to the Rules & Calendar council to be assigned to committees of reference.

**In the event that 2009's SB 360 is found unconstitutional, AIF SUPPORTS the addition of language which clarifies that a developer still has the opportunity to re-enter the process without penalty.**

## Seaports

On Wednesday, March 10th the Senate Commerce Committee unanimously passed SB 2000 Relating to Florida Seaports by Senator Jeremy Ring (D-Margate). Senator Ring explained that this bill will enhance the positioning of our state's seaports as global economic drivers of the future – particularly in light of the upcoming expansion of the Panama Canal and the resulting increase in international trade activity in the ports.

The committee adopted 2 amendments to the bill prior to its passage. One amendment by Senator Steve Oelrich (R-Gainesville) specified the Department of Environmental Protection's (DEP) permitting processes that ports will have to undergo if this bill passes. The amendment is designed to streamline and expedite current permitting requirements. The other amendment, sponsored by Committee Chairman Senator Rudy Garcia (R-Hialeah), deleted certain transportation funding and Qualified Target Industry (QTI) references from the bill. Both of these amendments address concerns that legislative staff raised in the initial bill analysis. A committee substitute for the bill will be released soon, incorporating these amendments as adopted.

Currently, the bill is scheduled to be next heard by the Senate Environmental Preservation and Conservation Committee. The House companion measure is sponsored by Representative Lake Ray (R-Jacksonville) who will be AIF's guest speaker at its next meeting of the Florida Maritime Council on March 18, 2010 at noon.

**AIF salutes Senator Ring for passing this bill through its first committee of reference and applauds his vision for recognizing the need to enhance Florida's seaports for a more prosperous future. AIF SUPPORTS SB 2000 because of its potential to positively impact Florida's 14 deep-water ports.**

On Thursday, March 10th The House Insurance, Business & Financial Affairs Policy Committee unanimously passed HB 821 Relating to International Commercial Arbitration by Representative Perry Thurston (D-Ft. Lauderdale). This legislation known as the "Florida International Commercial Arbitration Act," enacts the Model International Commercial Arbitration Law drafted under the supervision of the United Nations Commission on International Trade Law ("UNCITRAL") and approved by the General Assembly of the United Nations, and repeal the Florida International Arbitration Act, presently codified as Chapter 684 of the Florida Statutes.

**AIF and its Florida Maritime Council (FMC) SUPPORT this legislation because it will make Florida a more attractive location for international business. Businesses look for the familiar, and the acceptance of the Model Law in so many jurisdictions around the world could be a positive consideration in deciding where to locate international companies and conduct business transactions.**

## Insurance

On Wednesday, March 10th the Senate Banking and Insurance Committee approved SB 2044 Relating to Property Insurance by Senator Garrett Richter (R-Naples). The bill contains many provisions designed to encourage insurers to write more business in Florida, to reduce costs from abuses by public adjustors that increase rates, and to protect consumers by increasing insurers' financial requirements.

After extensive debate by **AIF lobbyist Gerald Wester**, in partnership with representatives of the insurance industry, the committee rejected amendments championed by public adjustors and their allies. The first amendment sought to remove incentives in current law for public adjustors to submit new questionable claims on behalf of a homeowner, given up to five years after the closure of a claim file by an insurer. The committee also rejected an amendment which would further facilitate the state's suppression on insurance rates by authorizing the insurance consumer advocate to review rate filings and initiate or intervene in Office of Insurance Regulation rate hearings. The state's suppression of rates is the major contributor to the transformation of Florida's homeowner insurance market, from well capitalized national insurers to Florida-only under-funded insurers. Failure of two of these companies, coupled with dismal financial results of most others, raises serious doubts about whether many of these insurers will survive a hurricane. The state may impose up to a 4% tax on all businesses' property and casualty insurance premiums to pay for losses by these carriers, and up to a 30% tax to fund Citizens' claims paying deficits.



**Gerald  
Wester**

SB 2044 will now move to the Senate General Government Appropriations Committee for further consideration.

**AIF SUPPORTS legislation which makes competition the primary determinant of insurance rates, including consumer choice for homeowners, flex rating for insurers and the exemption from prior OIR approval of rates for certain commercial policies.**

Following the passage of SB 2044, Mr. Wester assisted the American Council of Life Insurance in amending SB 926 Relating to Trusts by Senator Richter. This amendment seeks to resolve concerns that the bill may have unintentionally facilitated the use of stranger-originated life insurance policies (STOLI). Under a STOLI arrangement, an investor induces an individual to purchase life insurance. For an upfront payment and payment of the premiums by the investor, the purchaser makes the investor the beneficiary of the policy. The investor profits if the death benefit he collects after the purchaser dies exceeds the upfront payment and premiums paid. The sooner the senior dies, the higher the profit. In addition to undermining the purpose of life insurance, STOLI arrangements, if found to be investment products by the Internal Revenue Service, may jeopardize favorable income tax treatment for businesses and individuals pertaining to life insurance.

**AIF SUPPORTS efforts to pass legislation that eliminate abuses associated with stranger originated life insurance (STOLI) arrangements.**

## **Economic Development**

The House Economic Development Policy Committee met the morning of Wednesday, March 10th for the purpose of hearing three economic development bills that AIF strongly supports. While two of the proposals are similar to past legislation, all three are unique to this session and are expected to gain support through the process.

HB 607 Related to Tax Credits for Research and Development by Representative Scott Plakon (R-Orlando) is this year's version of the previously proposed program. Last week, the committee held a workshop to discuss the merits of this bill that seek to award corporate income tax credits for companies that are identified as a target industry business, as defined by the state of Florida. The bill was widely supported and voted out unanimously by committee members.

HB 607 will now progress to the House Finance & Tax Council for further consideration.

**AIF SUPPORTS measures that provide assistance to companies looking to bridge the gap between research and the commercialization of their products.**

HB 983 Relating to Florida Research Commercialization Matching Grant Program by Representative Matt Hudson (R-Naples) faced slightly greater difficulty in its passage through committee. This bill recommends a proposal that would assist startup companies that have received two phases of federal grant approvals to become eligible for a grant amount of up to \$250,000. This grant requires the company to have their primary offices, as well as the majority of their employees, within the state of Florida. Additionally, the business seeking the award must illustrate various thresholds of success in their industry, including evidence of funding and capital from non-governmental sources. These grants, which have a yearly cap of \$4 million, would be scheduled to sunset in the year 2013. Despite a few pointed questions from committee members as to the accountability measures of the grants and possible provisions that may recapture some of the state's investments from the companies, the committee approved the measure unanimously.

HB 983 will now move on to be considered by the Transportation and Economic Development Appropriations Committee.

**AIF SUPPORTS continued availability of state funds for enhancing economic development through incentives for start-up companies and the recruitment of new businesses and talent to Florida.**

Lastly, but perhaps most importantly, the committee passed a "glitch bill" for last year's significant New Markets Tax Credit Program that is set to infuse millions into the state's low income business community. As AIF's top economic development priority from last year, HB 1229 by Representative Robert Schenck (R-Spring Hill) will revise various portions of last year's initiative to bring it into compliance with the federal program. In doing so, this legislation will further enhance the program's effectiveness and encourage further capital investment into the economy.

HB 1229 will now advance to the House Transportation & Economic Development Appropriations Committee for further consideration.

**AIF SUPPORTS HB 1229 and the “New Markets” Tax Credit Program because of its potential to create jobs and stimulate economic activity in areas of the state that need it the most.**

The Senate Ways and Means Committee met Wednesday, March 10th to consider PCS/SB 1178 Relating to the Cost and Benefit Analysis legislation by Senator Mike Haridopolos (R-Melbourne). Senate Haridopolos' bill mirrors current legislation sponsored by Representative Ralph Poppell (R-Titusville), HB 121, and Representative Steve Crisafulli (R-Melbourne), HB 91 that was recently passed in the House Finance and Tax Council..

Proposing to insert a new financial mechanism into the state government's budgeting process, SB 1178 will require the state's financial experts to apply a cost benefit analysis to legislation in order to gather its full fiscal impact Applying this analysis will not happen on every piece of legislation filed by members, but only to those at the specific request of the presiding officers.

The current practice for legislative staff and economist is to "score" a piece of legislation with a fiscal impact based on the possible negative fiscal impact to the state coffers. In other words, only the negative impacts to the state budget are recognized. This practice fails to account for any positive revenues or effects on the economy that one may have via tax breaks, tax incentives, etc. by the passage of the policy. SB 1178 will address this short sighted practice and will pave the way for a comprehensive analysis of policies meant to help strengthen the economy.

SB 1178 is scheduled to move to the Senate Rules Committee for further consideration. Its House companion HB 121 is scheduled to be considered in the House Full Appropriations Council on Education & Economic Development.

**AIF SUPPORTS legislation that addresses the cost-benefit analysis of economic development incentive policies. Additionally, AIF applauds Senator Haridopolos for continuing to move this bill through the Senate and will continue to work diligently towards its final passage.**

The **House and Senate Economic Development Appropriations Committees** have met to release their respective budget recommendations this Thursday, March 11th. These recommendations are initial drafts that have been compiled using their allocation of state revenues given to them by their presiding officer. Both budgets are experiencing significant shortfalls from years past and several of the items funded in the area of economic development are less than what the Governor proposed in his initial budget. It should be noted; however, that the committee's budgets are based on actual revenues while the Governor's budget is based on expected and potential revenues that may result in ratifying outside sources of revenue. These potential funds include gaming revenues sent to the state by an agreement of a Seminole Gaming Compact. (See below for a comparison of House & Senate budget proposals).



|   | House    | Senate   |
|---|----------|----------|
| Qualified Targeted Industries Incentive Program | \$21.4mm | \$16.2mm |
| Innovation Incentive Program                    | \$0      | \$19.4mm |
| Economic Development Infrastructure (ROAD FUND) | \$21.7mm | \$20mm   |
| Visit Florida                                   | \$4.2mm  | \$0      |
| Film and Entertainment Incentive                | \$10.8   | \$0      |
| Quick Action Closing                            | \$12mm   | \$12mm   |
| Space Florida                                   | \$3.8mm  | \$7.5mm  |

With the budget process is in its early stages, both committees will meet next week to continue fine-tuning their proposals and will vote on a final product within the next 10 days.

**AIF strongly supports the funding of these economic incentives. With our colleagues in the economic development area, AIF will continue to work with committee members and respective Chairs to increase funding in these areas. AIF applauds Chairman Fasano for his support of funding for Florida's space program. Our state is facing the real possibility of losing its dominance in space due to the phase out of the shuttle program.**

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## Information Technology

On Wednesday, March 10th the Senate Governmental Oversight & Accountability committee took up and passed SB 1218 Relating to Information Technology by Chairman Jeremy Ring (D-Margate). This bill seeks to make significant changes to IT governance. Fundamentally, it creates the Office of Chief Technology Officer within the Department of Financial Services and creates three divisions within its oversight:

- Strategic Procurement;
- Policy Formulation, Development and Standards; and
- Implementation.

This bill raises significant concerns about what may happen to the Agency for Enterprise Technology (AEIT) which was created two years ago and charged with many of the same goals as this new Office of the Chief Technology Officer.

SB 1218 will now be considered in the Senate General Government Appropriations Committee.

**AIF's Information Technology Council (ITC) is very concerned with future IT Governance for the state and will continue to follow this and other IT Governance bills very closely.**

## Gaming

SB 622 Relating to Gambling by Senator Dennis Jones (R-Seminole) was work shopped Wednesday, March 10th in the Senate Regulated Industries Committee. The bill expressly voids the Indian gaming compact executed between **Governor Crist** and the Seminole Tribe of Florida on August 31, 2009. Additionally, it reauthorizes the Governor to negotiate and execute an Indian gaming compact on behalf of the state within sixty days of it becoming law. The bill further limits the Governor's authority to negotiate and execute a compact with the Tribe on any provision that is inconsistent with the terms and standards prescribed by the legislature during 2009 Regular Session.

In the event that a compact is not executed within sixty days and consequently ratified by the legislature, the bill directs **Florida's Attorney General Bill McCollum** to request the United States Attorney in to take criminal and civil action against the Tribe. Such action will force a cease and desist from continuing slot machine games and banked table games until ratification by the legislature.

SB 622 is expected to be considered by the Senate Committee on Regulated Industries during its next meeting scheduled for Wednesday, March 17th.

### **AIF supports fair and equitable gaming in Florida and looks forward to uniform pari-mutuel statutes, rules and regulations.**

On Thursday, March 11th the House Select Committee on Seminole Compact Review met and heard from **Amy Baker, Director of the Legislative Office of Economic and Demographic Research**. Ms. Baker presented a feasibility analysis on using an auction process to award the right to operate a gaming facility to a franchise or licensor. She provided a thorough analysis and concluded that it is feasible to auction off licenses and that this would provide significant new revenue source for the state, based on the assumption of auctioning 8 licenses in addition to existing pari-mutuel facilities and the Seminole Compact. The members were quite interested in losses to existing facilities if the state were to auction licenses, as well as the effects of full blown gambling in the state.

The committee then heard a presentation by representatives of Las Vegas Sands who provided an overview of the concept of an integrated destination resort/casino as a significant source of revenue for Florida. Through the investment of millions of dollars to build and operate a full gaming tourism destination, the representatives asserted that it would attract convention and other tourism based revenues.

The Select Committee is scheduled to meet next Thursday, March 18th to continue its deliberations.

**Associated Industries of Florida has closely monitored the debate in the legislature for the past two years and has supported fair and equitable gaming in Florida. We urge the legislature to promulgate uniform pari-mutuel statutes, rules and regulations. Both presentations highlighted options which would significantly affect the existing pari-mutuel industry and the proposed Seminole Compact while expanding gaming and tourism. The options represent a fundamental and substantial change for several industries in Florida.**

## Transportation

On Wednesday, March 10th in the House Roads, Ports and Bridges Policy Committee, Representative Doug Holder (R-Sarasota) unanimously passed HB 41 Relating to a ban on “texting while driving”. The committee members, while supportive of the ban, continue to raise questions on enforcement and emerging technology, such as “voice texting”. A Senate companion has yet to be heard.

HB 41 is scheduled to move to the House Public Safety & Domestic Security Policy Committee for further consideration.

The House Transportation and Economic Development Appropriations Committee reviewed committee budget proposals this afternoon. In planning for the House budget, Chairman Rich Glorioso (R-Plant City) is recommending a sweep of \$428 million from the state transportation trust fund to be transferred to the state’s general revenue to pay for recurring programs in health care and education.

**The funding of transportation projects using dollars from the state’s transportation trust fund is essential for Florida’s economic recovery. AIF OPPOSES the raid of transportation trust fund funding.**

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## Taxation

On Thursday, March 11th the House Finance & Tax Council unanimously approved a proposed committee bill **(PCB) FTC 03** to implement Amendment 6, the 2008 constitutional amendment that addresses the way working waterfront property values are assessed by property appraisers. FTC 03 Relating to Working Waterfront Property provides definitions and criteria for property that may be classified as “working waterfronts” and will be valued at *current* use and not highest and best use.

In the event that the additional definition is found unconstitutional, there is a severability clause included in the bill that would aim to keep the rest of the proposed law intact.

Although **FTC 3** is a step in the right direction, the proposed committee bill expands the definitions of marinas & ports beyond what is declared in the state constitution. The bill includes water-dependent facilities located in Miami-Dade County used for the commercial transportation of goods and people, to and from foreign ports, as well as those used to provide towing, storage and salvage in support of such properties.

AIF is very pleased to see the effective date change to upon becoming law as well as the provision extending the time for an application for classification as a working waterfront to July 1, 2010.

**FTC 3** will be filed as a bill and consequently referenced to committees.

**AIF supports efforts to pass implementing legislation from Amendment 6; however, work is still needed to develop definitions for marinas and navigable waters. We must be careful to craft legislation that will not harm those who really deserve the working waterfront tax classification. AIF is working adamantly to stay within the spirit of the language approved by voters in 2008.**