



# DAILY BRIEF

**From April 7, 2011**

Working diligently to craft the state's budget for FY 2011-2012, the House and Senate spent most of today discussing budget conforming legislation. Many of the bold reforms put forward this year, including comprehensive reform to Florida's Retirement System (FRS) continue to spawn partisan outcry among minorities in both Chambers. Nonetheless, it is no longer a question of whether pension reform legislation will pass this Session, but to what degree. Today, the House and Senate have sent their respective proposals to be worked out in a joint committee conference that may begin as early as next week.

Despite lengthy budget deliberations, AIF continues to champion its top priorities making their way through the committee process. Several measures passed their final committees of reference today and are expected to see floor action in the coming weeks – Read today's edition of the Daily Brief to learn which bills will be seeing Floor Action!!!

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## **Insurance**

Today, The House Economic Affairs Committee approved HB 1243 Relating to Citizens Property Insurance Corporation by Representative Jim Boyd (R-Bradenton). Presently, Citizens Property Insurance Corporation insures less than 15% of the market, yet the remaining 85% of Florida's population pay assessments that back the artificially low rates of Citizens' policyholders.

HB 1243 will result in a substantial reduction of Citizens, reducing the exposure and losses it currently experiences. As originally filed, the bill called for a glide path and capped rate of increases on premiums by 20% per territory and 25% on any individual policyholder; however, a last minute amendment today reduced the territorial cap to 15%. This amendment reduces the \$400 million additional premiums Citizens would have collected under the 20% cap, to \$300 million as currently proposed. This reduction will prolong the timeframe for which Citizens will have sufficient funds to pay losses from a major storm and not be reliant on taxes against businesses' premiums. Nonetheless, the provisions within HB 1243 will assist in returning Citizens to an insurer of last resort and thus reduces the potential for hurricane taxes.

HB 1243 has passed its final committee of reference and will now proceed to the floor. The Senate measure, SB 1714 by Senator Alan Hays (R-Umatilla), is now in the Senate Budget Committee.

**AIF SUPPORTS legislation that will to return Florida's insurance market to a point of sustainability and viability. AIF salutes Senator Hays for his commitment to return Citizens to an insurer of last resort and thus, substantially reduce the potential for hurricane taxes on businesses' insurance premiums.**

## Health Care

The House State Affairs Committee approved House Joint Resolution (HJR) 1 by Representative Scott Plakon (R-Longwood) this morning. This bill would prohibit a law or rule from compelling either directly or indirectly, any person or employer to purchase health care coverage and would also prohibit the imposition of taxes on persons or health care providers who participate in a direct payment health care system. The intent of the bill is to bring this choice to referendum that would allow Florida to opt out of the recently enacted Federal Patient Protection and Affordable Care Act which requires persons to purchase health insurance coverage by a certain date.

Last session, the Legislature approved similar language to be put before the voters to add to the Florida Constitution; however, the Second Circuit Court in Tallahassee ultimately ruled that various portions of the ballot summary were misleading. The language proposed in HJR 1 addresses the issues raised by the court. If HJR 1 is approved by the Legislature and is ultimately approved by the voters in the 2012 General Election, the resolution would take effect on January 8, 2013.

The resolution was approved on a vote of 13 to 5. HJR 1 will now proceed to the House Health & Human Services Committee. The Senate's measure, sponsored by Senate President Mike Haridopolos (R-Melbourne), is currently in House messages.

**AIF SUPPORTS legislation to negate the dangerous and radical proposals passed by Congress to overhaul our nation's health care system. AIF commends Senator Garcia for introducing legislation that will protect Florida consumers from the overreaching arm of federal healthcare.**

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## Environmental

Today, the full Senate unanimously approved HB 641 Relating to Contaminated Site Rehabilitation Tax Credit by Representative Debbie Mayfield (R- Vero Beach). Simply, this legislation increases the total amount of the Voluntary Cleanup Tax Credit Program (VCTC) cap from \$2 million to \$5 million annually. The VCTC can be applied toward corporate income taxes and helps with the cleanup of Brownfield sites so that they can be redeveloped or reused. The tax credit program continues to be a strong incentive for voluntary cleanup of contaminated sites in Florida. With a greater number of sites that are cleaned up and eligible for use, the more property that goes back on the tax rolls.

The Senate offered and passed a strike-everything amendment today that deleted everything after the enacting clause and inserted nothing. This is a procedural move so that they could send the bill back to the House. The House will refuse to concur and the bill will go to conference to determine how much in tax credits may be given for the Brownfields cleanup program.

**AIF SUPPORTS increasing the current \$2 million general revenue appropriation to \$5 million for applicable tax credits for Brownfield site cleanup.**

## Legal & Judicial

Today, the House Economic Affairs Committee unanimously passed HB 701 Relating to Property Rights by Representative Eric Eisnaugle (R-Orlando).

This bill amends the “Bert Harris Act” to make changes to Florida’s statutory protections on real property rights. In 1995, the Bert Harris Act was enacted by the Legislature to provide a new cause of action for private property owners whose property has been “inordinately burdened” by state and local government action that may not rise to the level of a “taking” under the State or Federal Constitution. The inordinate burden applies either to an existing use of real property or a vested right to a specific use.

HB 701 specifies that a moratorium on a development that is in effect for longer than 1 year is not a temporary impact to real property and may constitute an “inordinate burden.” Further, the bill expands the options for private property owners to obtain compensation or another remedy for governmental action that inordinately burdens real property. Provisions within HB 701 make it clear that certain moratoria lasting more than one year are not necessarily “temporary”, so as to be excluded from the definition of inordinate burden.

Representative Eisnaugle introduced a strike-all amendment which revised the following provisions; shortens a notice period for certain actions; revises procedures for determining a governmental entity's final decision identifying the allowable uses for a property; and defines what constitutes first application of a law or regulation. The amendment passed unanimously.

HB 701 has passed its final committee of reference and will now advance to the House floor. The Senate companion, SB 998 by Senator David Simmons (R-Altamonte Springs), is in the Senate Budget Committee.

**AIF SUPPORTS legislation that pre-empts state and local governments from infringing on private property rights. By providing more clarity in these types of cases, Florida will offer a far more stable atmosphere for conducting business and encouraging growth.**

Today, the House Judiciary Committee passed two court reform proposals that have been championed by House Speaker Dean Cannon (R-Winter Park) - HB 7101 Relating to Judicial Nominating Commissions and HB 7111 Relating to the Supreme Court by the House Civil Justice Subcommittee.

HB 7101 proposes a revision of the composition and terms of members of judicial nominating councils (JNCs) that remove the Florida Bar's right to nominate potential council members to the Governor. Furthermore, the governor will be given the discretion to appoint all council members, four of whom must be attorneys, with persons of his choice. The current staggered terms of members would be replaced by four-year terms that run concurrently with that of the Governor making the appointment. The proposal responds to the perception that the Florida Bar's nominees are disproportionately comprised of personal injury lawyers and Florida Bar "insiders" who politicize the selection process.

The second measure, HB 7111, would substantially revise Florida's judicial system. The key provisions of committee substitute for HB 7111 would:

- Add three new members to the current seven-member Florida Supreme Court. The Court would then function as two five-judge panels, one for civil and the other for criminal appeals;
- Continue to allow the Governor to appointing Supreme Court Justices but adds the requirement that appointments be confirmed by the Senate;
- Allow the Governor to designate the Chief Justice for each of the panels for terms of eight years apiece in lieu of the present method whereby the Chief Justice is designated by the members of the Court itself and is rotated every year.
- Allow the Legislature to repeal Supreme Court rules by a simple majority vote as opposed to the current 2/3 vote required.
- Expands the Court's jurisdiction by giving it discretionary review of cases it deems to be of great public importance regardless of whether a given case is certified as such by a lower court.
- Provides a permanent source of funding for the court system by setting aside at least 2.25% of General Revenue funds appropriated in any given budget year.

HB 7101 & HB 7111 have both passed their only committee of reference; however, HB 7101 was immediately placed on the House calendar for second reading.

**AIF is closely monitoring these judicial reforms proposed by Speaker Dean Cannon (R-Winter Park). AIF SUPPORTS some of these proposals, especially those that seek to reform the Judicial Nominating Commissions.**

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## **Pension Reform**

Senate pension reform legislation passed today with no further fanfare. The vote was 26-13. Yesterday, the Senate dedicated extended floor time to the measure, at which time over 40 amendments were considered.

Today's most notable change to SB 2100, by Senate Budget Committee Chairman JD Alexander (R-Winter Haven), was the addition of legislators and Cabinet members to the tiered mandatory contribution schedule for both the pension and investment plans. The bill now mandates contributions of three percent for gross compensation up to and including \$25,000, five percent for gross compensation of greater than \$25,000 and up to and including \$50,000, and seven percent for gross compensation greater than \$50,000 for legislators and Cabinet officers. Senator Don Gaetz (R-Fort Walton) offered the amendment.

Key elements of SB 2100 are a tiered system of required employee contributions as follows: two percent of salary for compensation up to and including \$25,000; four percent of salary greater than \$25,000 up to and including \$50,000; and six percent of salary for those compensated greater than \$50,000; an increase in the age for retirement and years of creditable service; and preservation of the Deferred Retirement Option Plan (DROP) program until July 1, 2016. DROP allows an employee to retire while continuing employment for up to 60 months, or up to 96 months for certain instructional personnel.

SB 2100 now travels to the House where it will be poised to become part of the Budget Conference process slated to begin as early as next week.

The House also debated its pension bill, HB 1405 by Representative Ritch Workman (R-Melbourne) today where Democrat members again continued a hopeless effort to derail the bill. The bill was left pending on Third Reading in anticipation of SB 2100 arriving in the House, and to prevent the two bills from crossing between the chambers.

In contrast to the Senate bill, HB 1405 requires a mandatory three percent employee contribution into retirement plans regardless of employee classification, an increase in the age for retirement and years of creditable service, and closing the DROP to new participants, all effective on July 1, 2011.

SB 2100 and HB 1405 are both tied to the budget. Both chambers are relying on the savings resulting from the reforms to partly close the nearly \$4 billion projected revenue shortfall. The House bill saves about \$710 million. The Senate bill, before it was amendment yesterday, would have saved about \$1 billion.

**AIF SUPPORTS efforts to bring Florida's pension system more in line with that of the private sector. Florida's taxpayers are shouldering the burden of the growing liability of these state and local government pension plans.**

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## **Information Technology**

Today, the Senate passed SB 1314 Relating to State Financial Matters by Senator JD Alexander (R-Lake Wales) by a vote of 30-0.

Senator Alexander explained that the bill enhances the authority of the Legislature over agency contracting that affects the state budget. The bill prohibits agencies, with exceptions, from obligating the state through certain types of contractual clauses, and requires advance notice to the Governor and Legislature before entering certain high-value or no-cost contracts. The bill specifies contractual language addressing the state's ability to terminate contracts, which must be included in all executive and judicial contracts, and creates misdemeanor penalties for agency employees who willfully violate these provisions. The bill requires that acceptance or rejection contract deliverables be in writing, and prohibits agencies from entering into lease or deferred payment purchases of greater than \$1,000,000 without legislative approval. The bill requires agency heads, their equivalents or designated senior management staff to sign contracts worth more than \$25,000, and to certify compliance with applicable contracting provisions for all contracts with terms of greater than 12 months.

In Senator Alexander's explanation of the bill he stated that progress had been made with some parties during the session to make the bill better. No Senators had questions or debate.

Following passage, Senator Alexander made a motion to immediately certify SB 1314 to the House to make it a part of the conference process. Even though SB 1314 does not have a House companion, it is still a part of conference and can become law.

**AIF's IT Council continues to be OPPOSED to legislation that will place an inordinate amount of restrictions on businesses contracting with the state; however, AIF commends Senator Alexander for working with AIF and the business community to ease concerns for vendors doing business with Florida.**

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## **Taxation**

Today, the House Economic Affairs Committee passed HB 7185 Relating to Corporate Income Tax by the House Finance & Tax Committee.

The state corporate income tax is a function of the taxpayer's federal income tax. Each year, Florida passes a corporate income tax "piggyback" bill to adopt the federal changes that were made to the federal code. In some cases, however, when the federal code changes allow for increased depreciation of certain assets that would cost the state revenue, the state does not always codify those particular changes.

HB 7185 extends this process for the 2010 and 2011 federal changes, thus avoiding the \$500,000.000 estimated loss in corporate income tax. An amendment was passed in committee today that simply appropriates nonrecurring funds to implement the provisions of this bill. By passing HB 7185, Florida's businesses will be precluded from keeping two sets of books when paying corporate income tax.

**HB 7185 has passed its final committee of reference and will head to the House calendar.** The Senate measure, SB 1998 by the Senate Budget Subcommittee on Finance and Tax, awaits consideration in the Senate Budget Committee.

**AIF SUPPORTS the adoption of a corporate income tax "piggyback" bill that codifies federal income tax code changes and ensures that businesses are not burdened with keeping two sets of books.**

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## **Workers' Compensation**

Today, the Senate passed SB 2132 Relating to the Department of Financial Services. A top priority for AIF, this legislation clarifies the reimbursement amounts applied to workers' compensation drugs.

Current law has a loophole which allows physicians who dispense repackaged drugs to receive reimbursement amounts at exponentially higher rates than any other pharmacy provider. With no existing regulation for the price of repackaged drugs that are not dispensed by pharmacies, this creates unpredictable cost fluctuations that drive up workers' compensation pharmacy costs. SB 2132 clarifies that all drugs are subject to the same statutory fee amounts regardless of where the drug is dispensed. Further, this measure will save Florida private sector employers \$62 million in workers compensation rates - savings that could be used to create jobs for Florida's citizens.

SB 2132 was immediately certified and sent to the House. In this case, the House must pass the bill as proposed by the Senate or agree to conference to work out any differences.

**AIF SUPPORTS legislation that will reduce workers' compensation costs to Florida employers while helping Florida restore its vibrant economic position.**

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## Space

The House Economic Affairs Committee unanimously passed non-controversial space measure today that is of great importance to AIF. HB 703 by Representative Tom Goodson (R-Titusville) will keep Florida competitive in attracting businesses related to space flight by eliminating the sunset provision in the existing liability exemption. This puts Florida on par with other states and assures prospective companies that they will continue to enjoy protection from liability for injuries due to the reasonable risks associated with space flight.

AIF appreciates the committee's unanimous support of legislation to enhance Florida's position as a leader in aerospace commerce. HB 703 has passed its final committee and will advance to the House floor. The Senate measure, SB 652 by Senator David Simmons (R-Altamonte Springs), is now in the Senate Rules Committee.

**AIF SUPPORTS this bill and the entire space agenda, and will work with Space Florida and other partners in the aerospace industry to make Florida a desirable location for aerospace commerce. HB 703 will continue to make Florida a desirable location for commercial spaceflight by extending liability protections for commercial space companies.**

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## Business Regulation

Today, the House State Affairs Committee passed HB 457 Relating to Fertilizer Ordinances by Representative Clay Ingram (R-Pensacola). The bill was amended significantly to address a number of concerns from local governments who were opposed to the provisions found in the original bill, which would have enacted a statewide fertilizer model ordinance. This model ordinance would have prohibited local government from enacting their own fertilizer ordinances.

As amended, the bill was rewritten to exempt existing local government regulations. Cities and counties can adopt new ordinances only if they have a comprehensive program to address multiple sources of nutrient pollution.

HB 457 is now ready to be considered on the floor of the House of Representatives.

**AIF SUPPORTS legislation that develops an overarching model for fertilizer regulation that applies statewide.**