



DAILY BRIEF

From January 30, 2012

Week 4 begins at anything but a slow pace this legislative session. AIF was pleased to stand among business leaders and Floridians today to demonstrate support for some of the business community's top issues. Here's a brief recap of the day's happenings:

- AIF joined **U.S. Congressman Steve Southerland (R-2)**, members of the business community and concerned Floridians outside of the Historic Florida Capitol this afternoon to bring attention to a very serious matter concerning Florida's water policy – the implementation of science-based Numeric Nutrient Criteria (NNC). [Read the Full Release.](#)
- Along with fellow members of the [Florida Alliance for Main Street Fairness](#), AIF launched a new web-video on Monday calling for the support and passage of E-Fairness legislation. [Click Here to Read the Full Release and Video.](#)
- And don't forget to check out this week's edition of AIFTV, which features an interview with Representative Bill Hager (R-Boca Raton) sponsor of legislation (HB 833) to "Right-Size the CatFund."

On the policy front, here's a look at the day in review – including some new issues not previously heard:

- HB 4169 Relating to Insurance Company Excess Profits by Representative Daniel Davis (R-Jacksonville) will alleviate burdensome and confusing regulations, thus creating a more fair and predictable regulatory environment for Florida's insurance carriers.
- HB 7051 Relating to Rules Establishing Numeric Nutrient Criteria by Representative Matt Caldwell (R-Ft. Myers) will provide clarity relating to the implementation of science-based, cost-effective NNC rules.
- HB 1349 Relating to Statewide Implementation of Florida's Medicaid Reform Program by Representative James Grant (R-Tampa) would urge the Centers for Medicare and Medicaid Services (CMS) to approve the waivers submitted by Florida, allowing the state to implement the recently enacted Statewide Medicaid Managed Care program (SMMC).

Workers' Compensation

The House Insurance & Banking Subcommittee overwhelmingly passed HB 4169 Relating to Insurance Company Excess Profits by Representative Daniel Davis (R-Jacksonville).

This legislation seeks to repeal a provision of the workers' compensation regulatory framework relating to what is labeled "excess profits." Under current law, workers' compensation rates are set and carriers are told by the state what rates they must charge their policyholders. At the end of a reporting period, then, the state evaluates the company's performance and sometimes determines that even with the mandated charges the carrier should refund some of its profits. This process usually occurs a few years subsequent to the year in which the "excess" was experienced which creates both accounting and cash flow problems for the companies.

Opponents of the bill were representatives of two state trial lawyer associations who claimed their opposition was due to the bill's detrimental impact on businesses; however, the overarching principles of reasonable regulation and market fairness far outweigh the criticisms they raised today.

HB 4169 will now advance to its final stop in the House Economic Affairs Committee.

AIF SUPPORTS legislation that will alleviate burdensome and confusing regulations, thus creating a more fair and predictable regulatory environment.

Environmental

The Senate Environmental Preservation and Conservation Committee approved SB 1858 Relating to Water Storage and Water Quality Improvements by Senator Thad Altman (R-Melbourne).

This legislation would encourage public-private partnerships to accomplish water storage and water quality improvements on private agricultural lands. The bill, as originally filed, only allowed this practice to take place in the Lake Okeechobee watershed; however, during Monday's meeting an amendment was adopted that expanded this opportunity to anywhere in the state.

As amended, this proposal could provide an economic benefit to farmers and ranchers by increasing their ability to store water and provide water quality benefits on their land without incurring the permitting restrictions associated with creating wetlands. AIF stood in support of the legislation.

SB 1858 will now advance to the Senate Agriculture Committee Committee for further consideration. A similar measure in the House – HB 1389 by Representative Steven Perman (D-Boca Raton) – has been scheduled for hearing in the House Agriculture & Natural Resources Appropriations Subcommittee on Tuesday, January 31st

AIF will continue to SUPPORT legislation encouraging public-private partnerships for Florida's infrastructure needs, particularly as it relates to water.

One of the top priorities for AIF's Environmental Sustainability Council is to extend the time frame for consumptive use permits (CUPs) for alternative water supply projects from 20 to 30 years. Today, the Senate Environmental Preservation & Conservation Committee unanimously approved SB 1178 by Senator Alan Hays (R-Umatilla) to effectively make this change.

Keyna Cory, Lobbyist for AIF's Environmental Sustainability Council, spoke in favor of the legislation. "The extension of permit time to coincide with bonding will help lower the interest rates. Furthermore, time and money will be saved by not having to go through the renewal process after 20 years. It is a win-win situation and a great way to help Florida's economy by providing jobs to build these vitally important projects."



Water issues are very important to our AIF members. Without water there is no development, no growth, no environmental protection, and no economic rebound for the State of Florida. Furthermore, time and money will be saved by precluding entities from enduring the renewal process after 20 years.

SB 1178 will now advance to the Senate Community Affairs Committee. A similar House proposal – HB 7045 by the House Select Committee on Water Policy – has been placed on the House Calendar for second reading.

AIF will continue to SUPPORT the extension of consumptive use permits (CUPs) for alternative water supply from 20 to 30 years for Florida's water utilities.

Last week, two House committees approved legislation – HB 7051 by Representative Matt Caldwell (R-Ft. Myers) – that is needed to send the Florida Department of Environmental Protection's new rules on numeric nutrient criteria (NNC) to the US Environmental Protection Agency. Today, the Senate started the process of reviewing identical legislation with the passage of SB 2060 by the Senate Environmental Preservation and Conservation Committee.

On December 8, 2011, the Florida Environmental Regulation Commission unanimously approved the Florida Department of Environmental Protection's numeric nutrient criteria rules. The approved rules set limits on the amount of phosphorus and nitrogen allowed in Florida's waters and require a unitary, state-run nutrient control program.

Because the proposed legislation triggers the ratification process, the Legislature must approve the rule. SB 2060 gives the appropriate approval and also directs the Department to submit its rule to EPA for review under the Clean Water Act.

Keyna Cory, Senior Lobbyist for AIF, spoke in favor of the measure. "Floridians needs to know who is going to set the standards and what the cost will be. We cannot recruit companies to the state of Florida and we cannot ask our Florida companies to expand without knowing the cost of doing business in our state. The DEP rule is the most achievable and cost effective ... we hope EPA will agree," said Cory.

The bill had only one no vote by Senator Eleanor Sobel (D-Hollywood). SB 2060 does not have any additional committee references and will advance to the Senate Calendar.

AIF SUPPORTS ratification of the proposed numeric nutrient criteria rule proposed by the Florida Department of Environmental Protection. Furthermore, AIF would like to sincerely thank members for their bi-partisan support of this very important legislation for Florida.

Health Care

The Senate Community Affairs Committee approved SB 1568 Relating to the Sale of Public Hospitals by Senator Don Gaetz (R-Destin). Currently, the authority to sell or lease a county, district or municipal hospital is provided to its governing board. SB 1568 amends current law to require that the governing board of a county, district or municipal hospital, prior to completing a proposed sale or lease of the public hospital, receive approval from a majority of registered voters in the county, district or municipality. This bill would allow for more transparency in the governing board's decision-making process when deciding to agree to the sale or lease, and would further allow for more public input into the proposed sale or lease.

The Committee adopted a strike all amendment that offered some of the concerns worked out between the Safety Net Hospital Alliance of Florida and Sen. Gaetz. The bill calls for the proceeds of the sale of public hospitals to be split between paying for the community's indigent care or law enforcement services. Further, the bill requires a financial review by an independent auditor before a hospital can be sold. The main difference between the Senate bill and its House companion, HB 711 by Representative Ed Hooper (R-Clearwater), is that the Senate bill calls for the approval by the Chief Financial Officer. This continues to be a point of contention between the two chambers. The Senate bill will now head to the Senate Budget Committee while the House Civil Justice Subcommittee is scheduled to hear HB 711 on Tuesday morning.

AIF SUPPORTS legislation that will ensure that the taxpayer and the community are protected by ensuring that full and fair market value is received in exchange for the sale and/or lease of public hospitals.

The House Federal Affairs Subcommittee overwhelmingly approved HB 1349 Relating to Statewide Implementation of Florida's Medicaid Reform Program by Representative James Grant (R-Tampa).

This Memorial would urge the Centers for Medicare and Medicaid Services (CMS) to approve the waivers submitted by Florida which would allow the state to implement the recently enacted Statewide Medicaid Managed Care program (SMMC).

The bill will move next to the House State Affairs Committee. The Senate companion – SB 1836 by Senator Joe Negron (R-Palm City) – has not yet been heard in the Senate Health Regulation Committee.

AIF ENCOURAGES the Centers for Medicare & Medicaid Services (CMS) to approve the waiver requested by Florida for the implementation of these important reforms.

Energy

The Senate Communications, Energy, and Public Utilities Committee took up and voted to consider proposed committee bill **(PCB) 7202** Relating to Energy. This bill contains many of the provisions outlined by the Commissioner of Agriculture and Consumer Services Adam Putnam, and adds a few additional provisions. The bill will have its formal hearing at the next meeting. The bill is outlined as follows:

- 1) 10 Year Site Plans - Requires the utilities, who file 10-year site plans with the Public Service Commission (PSC), to report the amount of renewable energy resources produced, purchased and proposed in Florida over the 10 year planning horizon and the impact to present and future capacity and energy needs.
- 2) Would reinstate the Renewable Energy Technologies Sales Tax Exemption - This would exempt from the sale or use tax materials used in the distribution of biodiesel (B10-B100) and ethanol (E10-E100), and other renewable fuels, including fueling infrastructure, transportation, and storage, up to a limit of \$1 million in tax each fiscal year for all taxpayers.
- 3) Would reinstate the Renewable Energy Technologies Investment Tax Credit - Increase current cap of \$6.5 million to \$10 million per year.
- 4) Revives the Renewable Energy Production Tax Credit with a cap of \$5 million per year.
- 5) Agency Energy Reporting - Would require all state buildings of 5000 square feet or more of conditioned space, to report their energy consumption and require the Department of Management Services in coordination with the Department of Agriculture & Consumer Services (DACS) to establish standard benchmarks and reporting requirements.
- 6) Amends the tax refund program for qualified target industry businesses, to provide that the exclusion of "any electrical utility" from the definition of "target industry business," and therefore the tax benefits, only applies to a utility "as defined in s. 366.02(2)", thereby allowing renewable energy producers who only sell electricity to a utility at wholesale to be eligible for the tax refund, if they meet the other requirements.

7) Electric Vehicle Charging Stations - Clarifies that electric vehicle charging stations are a service to the public and not the retail sale of electricity. This would ensure that government entities or businesses installing and providing this service are not subject to the undue burden of regulatory fees that may be instituted by the PSC if they were to be considered retailers of electricity. The PSC is also to investigate the feasibility of using off-grid solar photovoltaic power as a source of electricity for the electric vehicle charging stations.

8) Need Determination Proceedings - Would require the PSC to take into account the need to diversify the State's energy generation fuel supply.

9) Amends the DACS permitting process for introduction or release of non-native plants. The bill adds algae and blue-green algae to the list of plants a person may not cultivate in plantings greater in size than 2 contiguous acres without a DACS special permit.

10) Forest Inventory analysis - Would require the Department of Agriculture and Consumer Services (DACS) to develop a comprehensive statewide forest inventory analysis identifying where available biomass is located and ensure forest sustainability.

11) Energy Efficiency and Conservation Evaluations - Would direct DACS's Office of Energy, in coordination with the Florida Energy Systems Consortium, to evaluate methods to promote energy conservation and efficiency and provide the consumer clear guidance on energy efficiency savings.

12) Requires the PSC to evaluate and prepare a report on the Florida Energy Efficiency and Conservation Act statutes and determine whether they remain in the public interest. The evaluation must consider the costs to ratepayers, the incentives and disincentives associated with the statutes, and whether the programs create benefits without undue burden on the customer.

PCB 7202 will now be re-filed and await assignment to further committees of reference.

AIF commends Commissioner Putnam for offering a comprehensive proposal that will address the future of Florida's energy policy. Furthermore, AIF looks forward to working with Commissioner Putnam and his department to adequately address our state's energy needs.

The Senate Communications, Energy, and Public Utilities Committee also took up and passed SB 648 Relating to Florida Climate Protection Act by Senator Alan Hays (R-Umatilla).

This bill repeals the Florida Climate Protection Act of 2008, which allowed the Department of Environmental Protection (DEP) to adopt rules to create a cap-and-trade program; however, studies have shown that cap-and-trade would not be a cost-effective system, and as a result it was never implemented by the State. It also deletes a related provision on the recovery of costs associated with greenhouse gas registries.

SB 648 passed on a 10-4 vote and has one final stop in the Senate Budget Committee. An identical measure in the Senate – HB 4001 by Representative Scott Plakon (R-Longwood) – has been placed on the House Calendar for second reading.

AIF SUPPORTS legislation that will abolish the implementation of a "cap-and trade" program for the reduction of greenhouse gas emissions.

Taxation

The Senate Communications, Energy, and Public Utilities Committee unanimously passed SB 1060 Relating to Communications Services Tax by Senator Ellyn Bogdanoff (R-Ft. Lauderdale). Senator Bogdanoff explained that the Florida's Communications Services Tax (CST) went into effect in 2001 and is now over ten years old, and despite monumental advances in technology, hasn't had any major rewrites. She added that the statute needs to be modernized by adding some new definitions and updating others. The bill defines "internet access service," "digital goods" and "digital services." Further, the term "cable service" is replaced with the broader term "video service" to reflect what has evolved in the marketplace since the CST was put in place.

Sen. Bogdanoff went on to say that sales price was revised to allow additional nontaxable items to be billed in a single line item without the entire amount of that item being taxable.

Chairman Andy Gardiner (R-Orlando) then asked Senator Bogdanoff to introduce her amendment. She explained that the amendment made changes in the "situsing" (the process of determining tax jurisdictions/authority) section and retained the existing definition of a prepaid calling arrangement.

Senator Gwen Margolis (D-Miami) asked if the definition of digital goods and services took into account the new services available on the market today. Sen. Bogdanoff responded that they did.

There were no more questions and the Chairman began to call for public testimony.

A number of entities waived their time in support and no one was opposed.

The committee substitute now advances to the Senate Community Affairs Committee for further consideration. The House companion – HB 809 by Representative James Grant (R-Tampa) – is currently in the House Energy & Utilities Subcommittee.

AIF SUPPORTS legislation that will make the administration of the Communications Services Tax (CST) more efficient.