



From February 8, 2013

In another interim committee week leading up to the 2013 Legislative Session, much of the discussion centered on taxes, health care, and ethics and elections.

In the Senate two important bills were heard dealing with taxation. One on collection and remittance of online sales tax and another in taxes relating to pre-paid calling cards. Both pieces of legislation are important for Associated Industries of Florida members and Floridians as a whole.

Additionally, several committees looked at health care in the state of Florida and implementation of the Federal health care law.

TAXATION

AIF Supports E-Fairness Tax Bill that Clears First Committee

On Tuesday, February 5th, Senate Commerce and Tourism Committee Chair Nancy Detert, (R-Venice), presented SB 316, Tax on Sales and Use and other transactions to her committee.

Senator Detert gave a brief history of this issue of trying to require dealers of internet sales in Florida that do not have a nexus to collect the appropriate sales and use tax and remit it to the Department of Revenue (DOR). She said this may be the year to get it done because we need the additional tax revenue and the amount of online sales has grown to over \$40 billion. She further explained that the bill requires out of state retailers conducting business online to collect and remit Florida sales and use tax on sales to Florida customers by revising the definition of dealers. There are two amendments, the first made changes recommended by the Department of Revenue which passed without opposition.

The second amendment, Senator Detert explained included the substance of Senator Dorothy Hukill's, (R-Port Orange), bill on exemptions to the sales tax on machinery and equipment purchased for use in spaceport activities. The amendment also lowers the tax on communications. Senator Detert explained that these amendments were intended to make the bill revenue neutral. She said the amendment requires DOR to track the increased sales tax revenue from on line sales so future legislatures can further lower taxes to make it revenue neutral on an ongoing basis. After only two questions from members and testimony from the Realtors and AIF's Brewster Bevis, in support; the amendment passed without opposition. **Elimination of the sales tax on manufacturing equipment is also a top priority for AIF.**

Senator Detert explained that the bill, as amended, included a \$115 million reduction for the spaceport exemption and \$150 million reduction in consumer taxes on communications service. Further future legislatures could continue to make reductions in taxes if the DOR projected additional revenues from on line retailers collecting sales tax.

Senator Gwen Margolis (D-Miami) who has sponsored a similar bill and is co sponsoring this one, commented that this is an excellent bill and is way overdue and would help the Florida retailers who pay property taxes and give to the communities.

After supporting testimony by AIF, AARP and the shopping centers, the bill passed 10 to 1.

The bill was passed as a committee substitute and will have to be referred by the President's office, but will most likely go to Senate Appropriations Subcommittee on Finance and Tax next. The House companion, HB 497, has not been heard by committee yet.

AIF has long supported this important piece of legislation. This legislation is a fairness issue for the "brick and mortar" retailers in our state and their employees. AIF will continue to support this good legislation.

On Tuesday, February 5th, the Senate Committee on Communications, Energy and Public Utilities reviewed SB 290, Relating to Taxes on Prepaid Calling Arrangements, by Senator Bill Galvano (R-Bradenton), would treat prepaid calling plans the same as communications services and tax the prepaid plans using the Communications Services Tax (CST) instead of the Sales and Use Tax. **Brewster Bevis, Senior Vice President of State and Federal Affairs of AIF**, stood in support of the legislation. The bill passed unanimously and is now in the Senate Community Affairs Committee which is next scheduled to meet February 21st.

IMPLEMENTING THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

Medicaid Exchanges Discussed by Legislature

On Monday, February 4th, the House and Senate Select Committees, charged with determining how Florida will implement the provisions of the federal health care law, met jointly to learn more about health care exchanges. Florida policymakers chose to let the deadline pass for the state to set up its own exchange, which would be a place for employers and individuals to shop for health insurance coverage. However, the question remains as to whether Florida will, in the future, run its own exchange, will partner with the federal government to run one, or will allow the federal government to run the exchange on their own. The health insurance exchange set up by the new federal law must provide assistance to individuals as well as small employers.

Two organizations already providing services in our state that are somewhat similar to what would be required for an exchange gave an overview of their operations. Florida Healthy Kids Corporation (FHK) outlined the kinds of services, such as health plan selection, premium collection, and eligibility determination, they provide for nearly 300,000 children. FHK's services resemble what would be provided in an exchange for individuals purchasing coverage on their own. Another organization, Florida Health Choices (FHC), seems to have the capability to provide exchange services to individuals and employers. FHC was established by the 2008 Legislature and is essentially an online marketplace for small employers and individuals to shop health insurance plans. FHC's website is expected to be operational by the end of February. Both organizations noted they could be ready to allow persons to enroll by October 2014, if the Legislature and Governor decided to operate an exchange. With many specifics on running an exchange left to be provided by the federal government, many of the members of the Select Committees expressed concern about Florida taking part.

HEALTH CARE

Hospital Payment Methods Incentivizing Efficiency

The Senate Health Policy Committee received updates on the implementation of a 2012 law requiring hospital payment amounts to correspond to the patient's illness. The Agency for Health Care Administration (AHCA) reported that this new system is on schedule for full statewide implementation to begin on July 1, 2013. This system replaces an outdated per diem fee schedule which has driven up costs in the \$22 billion Medicaid Program.

Critics of the new Diagnosis-Related Groups (DRG) payment plan complain that statewide implementation should be phased in more slowly. AHCA contradicts that notion and suggests that since all systems are in place, there is no cost benefit to not using them to their fullest potential as soon as permissible under the law. The issue will receive additional Senate consideration next week by the Senate Health and Human Services Appropriations Subcommittee.

AIF encourages the Legislature to continue its support of existing law to implement the DRG payment system statewide because it rewards efficiency and eliminates variation in payment for similar services.

Optometrists

The House Health Quality Committee approved HB 239 by Rep. Matt Caldwell (R-Ft. Myers) which would expand the scope of practice for certified optometrists by authorizing them to administer and prescribe ocular pharmaceutical agents. Currently, a certified optometrist is only permitted to administer and prescribe topical ocular pharmaceutical agents. If an optometrist diagnoses a condition best addressed with an oral medication, the patient would have to see another practitioner for treatment. Florida is one of three states that do not authorize optometrists to prescribe oral medications for their patients. Of the 47 states that grant optometrists the authority to prescribe oral medications, 43 allow optometrists to prescribe controlled substances. The bill would also define "practitioner" for the purposes of including optometrists who have obtained a federal controlled substance registry number to prescribe, administer, dispense, mix, or otherwise prepare a controlled substance. However, the bill would prohibit a certified optometrist from administering or prescribing a Schedule I or Schedule II controlled substance.

To be certified for prescribing privileges, an optometrist must:

- Complete at least 110 hours of board-approved coursework and clinical training in general and ocular pharmacology
- Complete at least 1 year of supervised experience in differential diagnosis of eye diseases or disorders, which may occur during training or clinical practice;
- Pass part II of the National Board of Examiners in Optometry examination; and
- Pay a \$250 fee

The bill now heads to its last committee of reference – the House Health and Human Services Committee. The Senate companion – SB 278 by Sen. Garrett Richter (R-Naples) – has not yet been heard.

Managed Care Implementation Update

On Monday, February 4th, the federal Centers for Medicare and Medicaid Services (CMS) approved the first component of Florida's Statewide Medicaid Managed Care Program which moves Medicaid eligible seniors who need long term care services into managed care plans. The goal of the plan is to provide services to seniors in their home or communities to postpone moving them into expensive nursing homes. The federal approval means that seniors will begin enrolling in these plans later this year.

In 2011, Governor Scott and Florida lawmakers approved an extensive two phase reform plan, the first of which is aimed at lowering the cost of senior care paid for by the state. The second phase of the plan, which still has yet to be approved by the federal government, will move almost all other Medicaid recipients into managed care plans.

AIF strongly supported this reform plan as a way to lessen the amount Florida employers subsidize the Medicaid Program through higher private health insurance premiums. Currently, the state spends approximately \$22 billion to care for the state's neediest and most sickly residents. AIF supports the reform plan because it focuses on better coordinating the care of Medicaid recipients and we believe the plan will help improve the cost, quality and access to health care for all Floridians. AIF applauds CMS' approval of the first component of this bold reform plan and urges it to move quickly to approve the second phase of this important initiative.

Medical Malpractice

The Senate Judiciary Committee met Tuesday, February 5th and received testimony from representatives of the Florida Medical Association and Trial Lawyers as to whether changes in Florida's medical-malpractice laws are needed. For example, should the law be change to require an expert witness who testifies against a doctor in a malpractice case be the same specialty as the defendant doctor; should legal requirements for proving that a doctor has committed malpractice by not ordering a medical test be increased; and how should future medical costs for an injured plaintiff be determined? A Tallahassee physician, Richard Thacker said, "Every lawsuit changes a doctor, and generally not for the better, whether they are the defendant or not." Attorneys representing plaintiffs said the changes are unnecessary and would further limit the ability of malpractice victims to get compensated for their injuries. AIF will continue to monitor this important issue as it moves through Session.

BANKING & INSURANCE

The Senate Banking & Insurance Committee met this Wednesday, February 6th, to release a draft of a comprehensive property insurance bill containing provisions to reduce the potential for and amount of "hurricane taxes" on businesses' insurance premiums. Reducing the taxes to be levied on Floridians to cover Citizens' and Cat Fund claims in the aftermath of a major hurricane is another top priority for AIF. These provisions include reducing reinsurance coverage available through the Cat Fund over a three-year period resulting in such coverage being transferred to the global private reinsurance market. Citizens' provisions include:

- increasing premiums for high value and non-homestead homes; reducing the maximum value covered per policy from \$2 million to \$1 million;
- prohibiting Citizens from covering new homes that are seaward of the coastal construction control line; authorizing Citizens to enter into risk-sharing agreements with private insurers;
- requiring Citizens to establish a clearinghouse to enforce the eligibility requirements for both new and renewal coverage;
- And authorization for Citizens to increase rates by 5% in order to purchase reinsurance

In addition, there are provisions in the bill to encourage private homeowners' insurers to participate in a clearinghouse established by Citizens to help consumers shop for coverage before being placed in or renewed by Citizens. These provisions include exempting Citizens from "exchange of business" restrictions; increasing the maximum percentage of policyholders from 5% to 10% for which a rate greater than an approved rate may be charged if the homeowner consents; allowing rate increases by private insurers which do not exceed an annual property insurance inflation factor calculated by OIR; and establishing an optional expedited form filing process.

AIF commends Chairman David Simmons (R-Altamonte Springs) for his leadership in putting forth provisions to reduce the “hurricane taxes.”

TRANSPORTATION

On Wednesday, February 6th, the Senate Transportation Committee met to discuss SB 140 by Sen. Oscar Braynon (D-Miami Gardens) relating to Rental Car Sales and Use Tax Surcharges. Under the current law, when an individual rents a vehicle, there is a surcharge of \$2.00 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire. SB 140 looks to clarify “car-sharing” services in statute and to ensure that the \$2.00 per day surcharge not apply to a motor vehicle provided to a person through a “car-sharing” service. SB 140 passed unanimously with no public comment. SB 140’s next stop is the Senate Committee on Commerce and Tourism set to meet February 19th. There is currently no House companion bill.

ENERGY

On Tuesday, February 5th, the Senate Committee on Communications, Energy and Public Utilities reviewed SB 338 by Senator Wilton Simpson (R-New Port Richey), which would allow prosecutorial discretion in prosecuting the theft of electricity. Currently, the law only allows for a first degree misdemeanor, no matter the extent of the theft. **Brewster Bevis, Senior Vice President of State and Federal Affairs**, stood in support of the bill. The bill passed unanimously and has now moved to the Senate Criminal Justice Committee, next scheduled to meet February 19th.

ETHICS & ELECTIONS

This past Wednesday, February 6th, the House Subcommittee on Ethics and Elections work shopped its Campaign Finance Reform Proposal, HB 569, sponsored by Rep. Rob Schenck (R-Spring Hill). The most dramatic proposal of the bill is the goal of eliminating almost 700 Committees of Continuing Existence (CCE). A CCE is a political committee that may collect unlimited campaign checks, but may not expressly advocate for candidates. The proposal would also increase Florida's 20-year-old cap on campaign contributions from \$500 to \$10,000 per election, and from \$1,000 to \$20,000 per election cycle.

The Senate plans to begin its proposal on campaign finance in the coming weeks.

JUDICIAL

The House Judiciary Committee met this past Tuesday, February 5th. During this meeting they considered CS/HB 5, Regarding Open Parties, sponsored by Rep. Ray Pilon (R-Sarasota). The intent of the bill is to expand the current law to include open parties not held on residential property; but many land owners and businesses are concerned with the potential impact of this legislation. Rep. Pilon has made several amendments to address some of the highlighted problems, but it appears additional amendments will be necessary if the legislation is to be passed this Session. AIF is working closely with a group of business interests to improve the bill by preventing any language harmful to businesses from passing.

The bill was passed unanimously in the House Judiciary Committee with a committee substitute and has no remaining committees of reference in the House. No Senate companion legislation has been filed at this time.

ENVIRONMENTAL

The Senate Environmental Preservation and Conservation Committee met on Wednesday, February 6th. Senator Alan Hays (R-Umatilla) presented SB 364, which would extend the permit period for alternative water supply (AWS) projects by Florida's Water Management Districts from the current 20 years to 30 plus years. This would allow utilities to reduce the cost of bonding these projects and then to pass these savings along to utility rate-payers. The increase in Florida's water supply as a result of the simplified financing of AWS development projects would also be beneficial to Florida's businesses. AIF stands in strong support of AWS projects and is lobbying in favor of this bill.