

FOR FEBRUARY 7, 2002

TAX REFORM UPDATE

Senate President John McKay's (R-Bradenton) proposed tax reform plan took two big hits today. The first, and most important, was Governor Jeb Bush's remarks to a business group function this morning explaining his opposition to the plan. As you may recall from yesterday's report, the Governor's Office let the Senate President know that Governor Bush would be opposed to the plan. This notice was given late Tuesday night with little elaboration. Today, the Governor gave an address and released, to the public a letter, to both Senator McKay and House Speaker Tom Feeney (R-Oviedo), detailing his rationale for opposing the plan.

The letter is devastating in its analysis of the plan. While courteous, the Governor's statement very directly disassembles the arguments for the tax reform that are promoted by the plan's proponents. Here are some highlights:

- "I believe that our tax structure is an asset, and not a liability...while the nation as a whole lost 1 million jobs in 2001, Florida increased employment by 138,000."
- In response to Florida's supposed revenue crisis, "Revenues are meeting Florida's budget needs. During the 1990's, sales tax collections as a percent of personal income actually increased, from 3.3% in fiscal year 1990 to 3.5% in fiscal year 2000, even as total state collections declined as a percent of personal income over the last three years."
- In response to claim, repeated over and over on the Senate floor last week that Florida will "lose" \$4 billion in revenue by 2006: "Congress passed legislation that will stop taxing people's property after they die. I support that decision. This will impact our revenue projections by a little less than \$1 billion over the next four years. The remaining \$3 billion of the cited \$4 billion is attributed to revenue losses from remote sales via either mail order or the Internet...the Florida Department of Revenue recently indicated that the estimates of e-commerce tax losses for Florida are certainly inflated." The letter then documents that the estimates are not just inflated but wildly inflated. The \$4 billion is a chimera, it's no good and it needs to stop being cited by the Senate like a mantra.
- In response to the claim the Senate plan will raise enough revenues to make up the mythical \$4 billion: "With revenue neutrality required (of the plan) in the fiscal year 2005-05, generating an additional \$4 billion in the succeeding year or two from the base expansion would require annual growth rates in the newly taxed portion of the bases in the range of 50 to 100 percent."
- In response to the very claim that the plan is "revenue neutral," "This statement is clearly contradictory to the premise that the plan would raise more revenue than the current system...proponents should be straightforward with Floridians and tell them that they think current revenues are simply inadequate and that we need a tax increase, rather than hiding behind the veil of "revenue neutrality."
- In response to the claim that Florida's tax base is unstable: "Proponents have not demonstrated that the proposal will provide any significant degree of state budget protection from the business cycle."

This is just the slightest excerpt of the Governor's letter. It needs to be read by anyone concerned about the plan. While some of the issues may seem complicated or arcane, they demand analysis by Florida's employers. The old saying, "the devil is in the details" is never truer when one is contemplating tax reform. As the Governor has rightly observed, what really is at issue is not the State's need for more revenue but its appetite for spending. One question missing from the tax reform debate from the beginning is "what is best for Florida's economic growth?" Economic growth solves a multitude of ills, chief among them being the occasional budget shortfall.

The second hit came from Florida Taxwatch, a nonprofit, nonpartisan research institution. Florida Taxwatch released a statement today saying, "A thoughtful, comprehensive reform of Florida's tax structure calls for more than just a hasty rearranging of the attic," said Dominic M. Calabro, President of Florida Taxwatch. The statement pointed out that Florida was fifth highest in taxes on businesses in the nation.

Please visit <http://aif.com> to view full text of the Governor's letter and the Florida TaxWatch Press Release.

AIF is opposed to the Senate's tax reform plan. It unnecessarily and injuriously amends the Florida Constitution as a vehicle for the reform. Any consideration of Florida's sales tax exemptions should remain under the direct purview and authority of the Executive Branch and Legislature. Also, the plan compromises any rational consideration of the sales tax exemptions under current law by establishing a predetermined end result. If adopted, the plan will require the repeal of \$4.2 billion in sales tax exemptions regardless of their merit or their ability to meet objective criteria or any criteria. Finally, the plan is based upon faulty or outright inaccurate assumptions regarding Florida's future tax revenues.

HEALTH INSURANCE

The House Committee on Health Regulation considered HB 913 by Representative Frank Farkas (R-St. Petersburg) today. This bill makes changes to the Employee Health Care Access Act, which was enacted in 1992 to promote the availability of health insurance coverage to small employers regardless of their claim experience or their employees' health status.

Representative Gayle Harrell (R-Port St. Lucie) offered a series of late filed and hand written amendments to the bill. No one in the audience had received a copy of the amendments before the meeting. The first amendment adopted requires the carrier to offer, through the employer, the ability for the employee to purchase, at the employee's expense, a catastrophic policy or a standard or basic plan. This would add a mandate onto the limited policies allowed by this bill. The other amendment adopted requires the Department of Insurance (DOI) to evaluate the implementation of the bill and its impact on the entities that provide the plans, the number of enrollees, the participants covered by the plans and their access to care and the scope of health care coverage offered under the plans, and an assessment of the plans and shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, no later than January 1, 2007. Two other amendments offered by Representative Harrell were withdrawn until she had the time to work out the language with the sponsor of the bill. Her bad amendments could jeopardize this good bill.

There was an up roar in the Committee. Several people had traveled from out of town to oppose the bill. Because of time limitations, they were not allowed to speak to the Committee before the Committee voted on the bill. Vice Chair of the Committee, Representative Eleanor Sobel (D-Hollywood) refused to recognize Chairman Farkas request to vote on the bill at a time certain (when a chairman is offering a bill before the chairman's own committee, protocol dictates the chairman surrender the chair to the vice chair). Therefore, after several legislators offered their opinions on the proper procedure, Chairman Farkas resumed his role as Chair and ordered the Secretary to call the roll on the bill. It received a favorable vote and the bill now goes to the Council for Competitive Commerce.

As soon as the meeting was adjourned several angry people rushed to the podium and actually screamed at the Chairman. They felt that they were being ignored by the system and that their concerns about the bill were heard. I can not tell you what their objections to the bill were since they were not able to speak before the committee. AIF suspects that a doctor's special interest group bussed these "citizens" in for the expressed purpose of undercutting this good bill.

Any efforts to restore flexibility and competitiveness to the health insurance market and to limit the micro-management of the State in these matters would only be of benefit to Florida's employers.

HB 911, also by Representative Farkas, related to studying mandated health coverages under current law, was not considered today since the Committee ran out of time. It should appear on the next Committee agenda.

ADMINISTRATIVE PROCEDURES ACT

HB 257 passed the House Council for Smarter Government on a 10-3 vote. The provisions in HB 257 by Representative Joe Spratt (R-Sebring), if enacted, will go a long way to minimize unnecessary delays in the administrative hearing process.

Among its provisions, the bill makes clear that a petition for administrative hearing must state with particularity how a petitioner's substantial interests are or will be affected by the challenged action and the bill requires the person signing any pleading to certify that, to the best of that person's knowledge, the pleading is not being presented for any improper purpose. The definition of "improper purpose" is expanded to include a needless increase in the cost of litigation. The bill also requires an administrative law judge, upon request, to enter an initial scheduling order to facilitate the just, speedy and inexpensive determination of the proceeding.

These important revisions to the APA give a permit applicant an opportunity from the beginning of a proceeding to address the issues being raised, instead of being "blind-sided" by allegations to be made at some future time while the permit at issue (and often a business opportunity) languishes awaiting the outcome of the frivolous proceeding.

The bill also restores the pre-1996 "default" language that makes clear that an application is deemed approved without further action by the agency thereby avoiding unnecessary judicial proceedings and updates the Equal Access to Justice Act by increasing the maximum fees and costs that may be awarded to small businesses from \$15,000 to \$50,000.

The Judicial Oversight Committee amendments traveling with the bill were adopted and incorporated as a Committee Substitute. This was the last referral for HB 257. The Senate companion bill, SB 280 by Senator Ken Pruitt (R-Port St. Lucie) has passed Senate Judiciary Committee and is now in the Senate Government Oversight and Productivity Committee.

AIF supports this legislation. It makes necessary changes to a body of law that through misuse, has evolved from a citizen protection act into act rife with unnecessary costs and delays incurred by Florida's employers. The legislation restores balance to the system.

Stay tuned to our daily brief and to our web site at www.fbnet.com as the legislature makes some very important decisions on the state's economy. These decisions will have a major impact on the business community and AIF will be reporting to you everything that happens.

This report was prepared by Curt Leonard, Manager – Governmental Affairs at Associated Industries of Florida (AIF). 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://fbnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.