



FOR FEBRUARY 12, 2002

TAX REFORM UPDATE

The Senate's tax reform plan, comprised of CS/SJR 938 and CS/CS/SB 1106, took another hit today. Representative Tom Feeney (R-Oviedo), Speaker of the Florida House of Representatives, released a statement this morning saying with regards to the proposed reforms stating, "I intend to vote no." Much like the Governor's letter released last week in opposition to the plan, Speaker Feeney's statement provides a litany of well-reasoned, precise criticisms of McKay's plan. So far, Associated Industries of Florida, the Council of 100, Florida Taxwatch, the Task Force on Tax Reform, the Speaker of the House and the Governor have all concluded the plan is a bad plan for Florida.

The following are some key excerpts from Speaker Feeney's statement:

- "Florida's fundamental tax structure is not substantially flawed."
- "Floridians are not under taxed."
- "Florida's job growth leads the nation, due in part to the state's favorable tax code. While the United States as a whole, lost jobs in 2001, Florida increased job growth by 138,000."
- "Dr. Henry "Hank" Fishkind, economist to the Florida Senate, testified before the House Select Committee that some 30,000 – 400,000 Floridians would have to begin compliance measures and add administrative duties of collecting taxes on services they provide to their workload. Plumbers, tile setters, barbers, coin laundry operators, lawn service companies and hundreds of other professions will need to become tax collectors. Bureaucratic headaches will be poured on small businesses in Florida."
- "In future years this plan turns into the largest tax increase in Florida's history, leading to bigger government and more spending. This will hurt job growth, hurt economic development, and hurt Florida's future."
- "Even if these tax policy plans were positive, tax and fiscal policy should not be micro-managed and imbedded in perpetuity in Florida's Constitution."

Speaker Feeney has committed to a full and fair hearing of the proposal. We expect it to come to the floor in the next two weeks for a vote. Curiously, although the Senate passed its proposal, the Senate has not released the Senate Joint Resolution and implementing bill to House messages. Administratively, whenever the House or Senate passes a bill, it travels to the other chamber where it resides in "messages." From messages it is either brought to the floor for consideration or referred to the receiving chamber's various committees, depending upon the rules governing that chamber during the session. So, technically, the House has no plan to vote on at this time.

If you wish to review the Senate's plan, and it can be found at our website at <http://aif.com/taxreform.htm>

LOCAL GOVERNMENTS & MINIMUM WAGE

The Senate Comprehensive Planning, Local & Military Affairs Committee passed SB 1902 by Senator Durell Peaden (R-Crestview) today by a vote of 7 – 0. The bill restricts local governments from arbitrarily mandating that local employers pay a minimum wage in excess of the federal minimum wage. Characterized as a “living wage,” the idea originally gained momentum in California (where else?) where local governments began mandating employers, holding a local government contract, pay wages in excess of the minimum wage. However, this idea accelerated into local governments requiring local employers, under contract or not, to pay an excessive wage. The bill does nothing to inhibit local government contracts with employers, but it does prohibit the arbitrary mandate of an exorbitant minimum wage on employers who have no contractual relationship with a local government.

An amendment was offered and adopted by the Committee, which permitted a local government to establish a minimum wage in excess of the federal wage if it is adopted by a community referendum. Although this weakens the bill, the referendum requirement is still a high bar to reach for proponents of such wrongheaded economics.

AIF supports the bill. A “living wage mandate” would have an extraordinarily damaging effect on the hospitality business community. Artificially increasing the level of wages paid will cause businesses to shut down, reduce hours, reduce staff and increase prices. Discretionary dollars, typically spent in the hospitality sector, would simply go somewhere else, decreasing the level of business activity indefinitely. Finally, such a skewed wage increase will attract more qualified applicants, moving aside the very employees the wage increase was designed to assist.

FOOD SERVICE INSPECTIONS

A bad bill was considered today, made even worse by an amendment and then passed. The House State Administration Committee adopted the bill, HB 155 by Representative Allen Trovillion (R-Winter Park). Originally, the bill required a \$150 “reinspection” fee on food service establishments. The reasoning was, if a food service establishment, i.e. a restaurant, is found to be in non-compliance by a Division of Hotels and Restaurant inspector, the restaurant will need to be reinspected at a later date. The Division claimed the additional \$150 fee was necessary to recoup the costs associated with reinspection.

Ostensibly, Representative Trovillion offered a “strike everything” amendment (which totally rewrites the bill) to address the concerns that such a fee would provide a perverse incentive for the Division to suddenly start reinspecting *a lot* of restaurants to garner the additional funds. However, the amendment was much darker than the original bill.

The amendment takes the Division of Hotels and Restaurants Health Education Program (HEP) and privatizes it, stipulating that the education service would be provided by a “private, nonprofit organization.” HEP does not certify, it educates. However, as part of the HEP service, HEP representatives do *steer participants* to those companies, for profit or nonprofit, that do provide the food certification training. So, an organization that is fortunate enough to get the HEP contract will then be able to refer participants to its own certification programs and services, thus locking down the food training market in Florida from start to finish. The amendment also increases fees and costs to restaurants and other food service establishments. In addition, this “mysterious” private nonprofit organization would get funds from the Division to administer the HEP program. Adding to the perversity of directing public dollars to expressly benefit one organization, it is equally troublesome that an organization would support legislation that drives up fees on its own membership.

If the Division wishes to privatize this activity, at the minimum, this privatization should be conducted by bid and not be directed to one group by statute. AIF is opposed to his bill because it is arguably unethical, increases fees and costs to the hospitality industry and unnecessary.

CABINET REORGANIZATION

The Senate Governmental Oversight & Productivity Committee passed CS/SB 232/662 today by a unanimous vote. To recap the issue, in November 1998, the voters approved Constitutional Revision Eight restructuring Florida's Cabinet and merging the Cabinet offices of Treasurer and Comptroller into one Chief Financial Officer. These revisions will become effective January 7, 2003. The new Cabinet will consist of the Chief Financial Officer, the Attorney General and the Agriculture Commissioner. The offices of an elected Secretary of State and Commissioner of Education will be eliminated from the Cabinet.

The language in Constitutional Revision Eight merging the Cabinet offices of the Treasurer and Comptroller did not provide direction as to how the statutory responsibilities currently assigned individually to the Treasurer and Comptroller should be treated. The statutory responsibilities at stake include the regulation of banking, securities and insurance. This hybrid CS/SB 232/662 bill places the CFO very much in charge of all three industries by giving the officer the authority to directly appoint three commissioners with the regulatory oversight over these three industries.

AIF supports the House position on the reorganization of the Florida Cabinet. HB 577, by Representative Mark Flanagan (R-Bradenton), provides for the simplification and consolidation of governance, a desire expressed by the vote of the people in 1998, while at the same time providing for the necessary public and legislative oversight of the commissioner-selection process. In addition, this structure provides for a fair and equitable regulatory environment for the insurance and banking industries while in no way diminishing the historic oversight and enforcement authority practiced by the current Treasurer and Comptroller. The hybrid CS/SB 232/662 bill fails to meet these standards.

MORE BUREAUCRACY IN THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The Senate Agriculture and Consumer Services Committee passed SB 2072, by the Committee Chairman Steve Geller (D-Hallandale Beach) today. The bill is basically a "wish list" from the Department of Agriculture and Consumer Services and one of its wishes isn't any good.

The bill creates an Advisory Council to consider information that is already public along with information that is currently being presented to the industry *Quarterly* (involving disciplinary actions) and to the of Department of Agriculture & Consumer Services (DACS). The bill does nothing more than create another bureaucratic layer.

Providing advice to DACS on the conduct of pest control enforcement activities does not require the formation of an Advisory Council. Advisory Councils have been suggested in the past. The attitude of previous and current leadership is that such proposals are not common sense, believing that adding another administrative layer may cause unnecessary confusion.

AIF opposes this provision in the bill. The creation of the Council would supplant and displace the functions of an existing Florida Professional Applicators Alliance comprised of four associations. The Alliance regularly meets with DACS officials to discuss all phases of the industry including enforcement. At the Alliance meetings there is an excellent working relationship with DACS officials. Creating the proposed council would also add unnecessary administrative costs to serve a function now effectively being accomplished by the Alliance. The Alliance has an excellent track record of addressing enforcement issues when they arise and making unbiased recommendations when called upon.

MORE BURDENS ON EMPLOYER'S HEALTH INSURANCE CARRIERS

HB 293 by Representative Holly Benson (R-Pensacola) was temporarily passed (consideration delayed) in the House Committee on Judicial Oversight today after many concerns were raised not only about the contents of the bill, but the technical aspects as well.

This "Prompt Payment Bill" should be supported by business, if it was only a prompt payment bill. Every business wants their bills paid promptly. Unfortunately, the bill contains much more, including a civil cause of action for non payment, "one-way" attorneys' fees and a shortened period of time for insurance companies to audit request for payments, just to name a few problems.

The medical profession claims that they need a civil cause of action as a "hammer" to make insurance companies pay in a more timely manner. However, if this bill is passed, it would unquestionably cause insurance premiums to rise as a result of costly, debilitating litigation. In Additionally, insurance companies would have to pay bills even if they are not submitted properly and oddly hope that if there is an error, they can collect an over payment.

Thanks to Representative Dudley Goodlette (R-Naples), a motion was made to temporarily pass the bill until some of these issues can be resolved. The committee unanimously agreed with him. Therefore, the bill should be heard in the committee next week. The doctors have been intransigent on these issues and it is unlikely that any "deal" can be worked out. There could be a compromise if they true concern was "prompt pay," but their solutions are heavy handed and costly.

While AIF is sympathetic to the concerns of health care providers and consumers with regards to prompt payment there remains the inescapable reality that if the issue is not addressed carefully, any solution could do more harm than good. In addition, such legislation always seems to originally contain a "sneak attack" by trial lawyers with language empowering them to bring suit against HMO with definitions and standards that would place the insurer at a costly, even crippling disadvantage. Florida's employers are the primary providers of health care benefits in Florida. Their ability to pay for this benefit must not be weakened any further by attorney-driven increases in their premiums.

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.