



WEEKLY BRIEF FOR THE WEEK OF APRIL 14 - 18, 2003

Before you review our recap of Capitol events this past week, we felt it was important to make sure all of our members are familiar with the new e-procurement system that will soon be operative at the Department of Management Services. Please take a few moments to read this special notice.

SPECIAL NOTICE – MyFLORIDAMARKETPLACE.COM

Section 287.057(23), *Florida Statutes*, requires that the Department of Management Services (DMS) develop a program for on-line procurement of commodities and contractual services. In furtherance of a gubernatorial initiative and following this legislative edict, DMS has been moving forward over the last few years – cautiously but deliberately – to replace the aging State Purchasing Subsystem (SPURS) of the Florida Financial Management Information System (FFMIS) with a modern, web-based, e-procurement system.

After a prolonged process of competitive bidding and negotiation, DMS chose Accenture to install and operate the new system, called MyFloridaMarketPlace.com. At this point, DMS is conducting workshops to consider administrative rules that are necessary for implementation. These rules, and more broadly the entire e-procurement system, may have significant cost implications for companies that do business with the state.

In a nutshell, DMS intends to promulgate three administrative rules:

- 1.) 60A-1.030 Vendor Registration & Registration Terms: requires that each vendor doing business with the state must register with MyFloridaMarketPlace.
- 2.) 60A-1.031 Transaction Fee: imposes a one-percent transaction fee, effective July 1, 2003, on all transactions between vendors and the state.
- 3.) 60A-1.032 Participation Exceptions: exempts certain participants; as of the April 2 draft, these exemptions are limited to the following:
 - procurement by the Department of Transportation for construction and maintenance of roads under section 337.11, F.S.
 - purchase of real property via the exercise of the state's power of eminent domain.
 - purchase of land under Chapters 253 or 259, F.S.
 - payments not tied to a contract or agreement and made in the context of judicial proceedings
 - payment of educational scholarships, fees, and financial assistance in Chapter 100, F.S.
 - transactions with direct beneficiaries of health and welfare programs
 - reimbursements to state employees
 - transactions with another governmental agency, as defined in section 163.3164, F.S.
 - transactions in which the price paid for a commodity or service is established by law or governmental regulation

Most notable is the requirement for a one-percent use tax that is formally paid to Accenture for use of the system. Suffice to say, this may ultimately effect the price of goods and services purchased by state government. At the very least it means that certain state agency purchasing budgets must be reduced by one-percent, due to the use tax for DMS and Accenture.

For additional information, you may go to the Department of Management Services website at www.myflorida.com. Once you are at this website, scroll down to the section entitled "Hot Topics." Click on the link entitled, MyFloridaMarketPlace/e-Pro. This next screen will provide you with four topics: Buyers, Vendors, Project Information, and Related Topics. Under the Related Topics link, you may review the proposed rules and previous workshop information.

To speak with the Department of Management Services, dial (850) 488-2786.

The Department will conduct another rule workshop on Tuesday, April 29, 2003, at 9:30 a.m. in Room 170 of the Carr Building, Department of Environmental Protection, 3600 Commonwealth Boulevard, Tallahassee, Florida (off Capital Circle NE near I-10). Interested persons are invited to attend by telephone. To attend by telephone, call (850) 410-0966 (SC 210-0966). Attendees may begin calling in at 9:15 a.m.

The past week in review follows.

WORKERS' COMPENSATION

This was an important week for workers' compensation legislation, as major bills were heard in both House and Senate committees.

On Monday, the House Committee on State Administration passed a committee substitute for HB 1837, which contains most of the workers' compensation provisions supported by AIF and the Coalition of Business and Insurance Industry.

The bill eliminates the following:

- hourly attorney fees; also reduces the current contingency fee schedule
- the Social Security criteria from the definition of catastrophic injury for purposes of determining permanent-total disability
- all exemptions in the construction industry except for up to three corporate officers who each own at least 10 percent of the corporation

Impairment-income benefits to injured workers were increased to 75 percent of the compensation rate, up from the current 50 percent level. Funeral expenses and death benefits were been increased by 50 percent.

On Monday AIF interviewed two members of the Florida House of Representatives about Workers' Compensation. To view video of the interviews please go to <http://www.aif.com/taxmedia.htm>.

Tuesday, the Senate Banking and Insurance Committee dealt the business community a blow on workers' compensation reform. The committee took up a strike-all amendment that replaced all previously filed bills and passed the committee substitute to SB 1132, sponsored by Senators Charles Clary (R-Destin) and Jeff Atwater (R-Palm Beach Gardens).

The bill as amended would

- increase permanent total disability benefits by extending eligibility to age 75; the bill's original language stopped those benefits at age 65
- increase an employee's potential eligibility for temporary partial and temporary-total disability benefits to 260 weeks *each*, up from the current level of 104 weeks *combined*
- not eliminate hourly attorney fees, but would increase the current contingency fee schedule to 20 percent of the first \$10,000 and 15 percent of all benefits secured thereafter; an hourly fee of \$5,000 would apply to each petition, with \$20,000 applying to compensability cases
- remove important provisions clarifying employer immunity from civil liability necessary to correct the case of *Turner v. P.C.R., Inc.*, which opened employers to double liability through workers' compensation and the civil justice system.

Again, we urge you to please let your legislators know that the House bill (CS/HB 1837) is a much better way to achieve workers' compensation reform. It increases benefits to injured workers and while rendering significant cost savings in order to improve the business climate in the State of Florida.

AIF supports legislation that controls medical expenses, reduces litigation, and corrects inefficiencies in the workers' compensation system. Above all, AIF supports remedial legislation that will provide fairer benefits to injured workers and lower costs to employers.

MEDICAL MALPRACTICE

Last week, the Senate Judiciary Committee combined seven medical malpractice bills into three: CS/CS/SB 560 & 280, CS/CS/SB 562 & 1912, and CS/CS/SB 564 & 2120 & 2620. Joint sponsors of these bills are Senators Durell Peaden (R-Pensacola) and Burt Saunders (R-Naples).

Tuesday, the Senate Appropriations Committee heard and passed all three of the medical malpractice bills. The first bill considered, CS/CS/SB 560 & 280, mandates an insurance rate rollback and provides contingent authority for a state-run medical malpractice insurance fund. The committee then heard CS/CS/SB 562 & 1912. This bill strengthens reporting and disciplinary actions against health-care providers. The committee approved an amendment that added five administrative-law judges to handle physician-discipline issues. The last bill heard by the committee, CS/CS/SB 564 & 2120 & 2620, contained the Senate's litigation reform recommendations.

The committee adopted a series of amendments in each bill that merely refined the existing language proposed. None of the bills, however contains the one thing that the Governor's Task Force on Medical Liability Insurance concluded was most necessary to alleviate the problem: a cap on general damages.

Admittedly, the Senate package contains some positive elements, and, true, the House counterpart could stand some improvement. However, on balance, the House medical malpractice bill, HB 1713 by the House Health Committee and Representatives Frank Farkas (R-St. Petersburg), Ed Bullard (D-Miami), and Ed Homan (R-Tampa) is much stronger and much better for Florida's beleaguered health care providers.

In the interests of assuring access to critical care specialists, emergency medical services, and trauma care – and in the interests of containing skyrocketing health care costs – we strongly urge AIF members to contact your legislators (and especially your state senator) to voice your opposition to the Senate “medmal” package and your support for the HB 1713.

Recently, an impartial national survey found that 34 percent of all voters consider the medical liability issue to be a major concern in their state. Moreover, the number rises to 43 percent in crisis states such as Florida. From the voters' perspective this is largely a non-partisan issue. Nearly equal percentages of Republicans and Democrats are concerned about the problem. The survey also found that a solid majority of voters (53 percent) support capping pain and suffering awards at \$250,000. Among seniors the percentage jumps to nearly 70 percent.

The House bill contains a \$250,000 cap on non-economic damages. The lawyer-friendly Senate bills do not.

Now is the time for action. If the Legislature fails to act decisively this year, the medical liability crisis in Florida will spiral out of control.

AIF supports a comprehensive package of measures designed to alleviate Florida's medical liability crisis, most notably, a \$250,000 cap on non-economic damages and necessary revisions to Florida's bad-faith insurance law. Now is the time for the Legislature to act decisively to provide immediate and lasting relief.

TAXATION

Monday, the House Subcommittee on Workforce and Economic Development heard and passed with an amendment HB 1173, sponsored by Representative James Harper (D-West Palm Beach). As amended, the bill provides corporate tax credits for employers who hire persons from qualified targeted groups having high unemployment rates or special employment needs; e.g., ex-felons released from prison within the last three years, persons under community control, and recipients of Supplemental Security Income

AIF supports HB 1173. Corporate tax credits provide tangible incentives for companies to hire certain "hard to place" persons. This legislation benefits state government, private employers, and affected employees.

Tuesday, the Senate Finance and Taxation Committee passed the corporate income tax piggy-back bill, SB 1002, sponsored by Senator Walter Campbell (D-Tamarac) who chairs the committee.

This bill ensures that corporations that are subject to Florida corporate income tax can base their tax calculations on current IRS rules. Florida can rely on the efforts of the IRS to ensure the accuracy of the starting point for determining tax liability. Passage of this bill is necessary to maintain this relationship, which significantly decreases the cost of enforcing Florida's income tax law.

AIF supports "piggybacking" state income tax laws on the Federal IRS Code, as it simplifies tax regulations and reduces compliance costs for corporations doing business in Florida.

Wednesday, the Senate unanimously passed SB 1430, sponsored by Senator JD Alexander (R-Winter Haven). It provides an exemption from the gross receipts tax for natural and manufactured gas under certain circumstances.

AIF supports legislation that removes taxes on manufacturing processes that act as tariffs and diminish the competitive ability of Florida-made goods.

CONSTITUTIONAL AMENDMENTS

Monday was a busy day for bills affecting amendments to the state constitution.

The Senate Judiciary Committee adopted a committee substitute that amends and combines SB 1172, by Senator Anna Cowin (R-Leesburg) and SB 1672, by Senator Bill Posey (R-Rockledge) into a single bill, CS/CS/SB 1172 & 1672. As amended, a revision or proposed amendment to the state constitution shall not be placed on the ballot unless the Florida Supreme Court determines that it does one of the following:

- seeks to alter, amend, or repeal an existing provision in the constitution
- addresses a fundamental right of the citizens of this state
- seeks to create, implement, or otherwise change a basic structure of state government

The House Finance and Taxation Committee passed HB 437, sponsored by Representatives Randy Johnson (R-Winter Garden) and Ken Littlefield (R-Zephyrhills). This bill would amend the state constitution to require that ballot language for citizen initiatives include a calculation of the cost of the amendment and identify a specific funding source for the program being created.

Also on Monday, the House Procedures Committee heard and unanimously passed proposed committee bill, PCB PC-03-11 (which has since been formally numbered as HB 1877). This bill increases the number of signatures required for citizen initiatives to place an amendment or revision to the ballot, and it requires a two-thirds vote, rather than a simple majority vote, to ratify new constitutional amendments. The committee also heard and passed HB 1521, sponsored by Representative Will Kendrick (D-Carrabelle). This bill addresses the requirements for a petition drive leading to a constitutional amendment, such as, the percentage of names collected, the date due to the supervisor of elections, review of the initiative by the Supreme Court, and the period of time during which the petitioner's signature remains valid.

The stage is now set for a possible House-Senate showdown on the constitutional amending process – with the House favoring an extraordinary majority vote to keep nonessential provisions out of the state constitution and the Senate opting instead for Supreme Court confirmation that proposed amendments are truly constitutional in character.

AIF supports legislation that strengthens the integrity of the constitutional amending process, especially with respect to citizen initiatives. The people retain the ultimate right to alter or revise the state constitution in accordance with fundamental precepts of democratic rule.

ENVIRONMENT

Florida's environment is a matter of great public interest. On Monday, the Senate Committee on Natural Resources passed SB 2726, sponsored by Senator Nancy Argenziano (R-Crystal River), regarding contaminated site cleanup. This is the Senate's version of CS/HB 1123, sponsored by Representative Donna Clarke (R-Sarasota). Currently, risked-based-corrective action (RBCA) is used in the clean up of brownfields, and dry-cleaning-solvent and petroleum contamination sites. If this legislation passes, the same standard will be used when cleaning up other contaminated sites and will make more property environmentally safe and suitable for development.

AIF supports SB 2726 and CS/HB 1123 because this legislation establishes a reasonable standard for remediation of contaminated property.

Tuesday, the House Natural Resources Committee heard HB 1525, sponsored by Representative Dudley Goodlette (R-Naples), which seeks to reform the environmental permitting system. Representative Goodlette is a thoughtful and well-respected legislator. Oftentimes, he “leads the charge” for the business community on the most complex and controversial pieces of legislation. We believe that he introduced the “performance-based permitting bill”, in part, as a courtesy to the Department of Environmental Protection (DEP), but he also wanted to use this bill as a catalyst for discussion of some wider issues of concern, such as unnecessary paperwork and excessive DEP bureaucracy, especially with regard to required renewals of environmental permits.

A number of salient issues and ideas were aired in the committee meeting. Thereupon, Representative Goodlette asked that action on his bill be temporarily deferred. For all practical purposes, this parliamentary maneuver ends any further consideration this year of performance-based permitting. The Senate counterpart, SB 2634 by Senator Rod Smith (D-Gainesville) is not moving at all.

Representative Goodlette has a well-earned reputation as a consensus-builder in the Florida Legislature. He is also highly regarded by the Bush administration. We expect him to make another good-faith effort next year to fairly and evenly address the legitimate concerns of all parties, including DEP, affected developers, and other business interests.

Meanwhile, Representative Dwight Stansel (D-Live Oak) asked that his legislation, HB 1531, another bill pertaining to environmental permitting, also be temporarily passed. Going forward, he has agreed to work in tandem with Representative Goodlette on any new legislation pertaining to environmental permitting.

AIF opposes legislation that imposes unnecessary or burdensome restrictions on the natural growth of business and industry in Florida. A healthy economy is critical for a healthy environment.

CIVIL RIGHTS ACTIONS

Tuesday, the Senate Appropriations Committee heard and passed with an amendment SB 1214, sponsored by Senators Alex Villalobos (R-Miami) and Lesley Miller (D-Tampa).

This bill amends the Florida Civil Rights Act to allow the attorney general independent authority to commence a civil action for damages, injunctive relief, civil penalties, and other appropriate relief against any person or group for patterns or practices of discrimination or for discrimination that raises “an issue of general public importance.” The amendment adopted was sponsored by Senator Debbie Wasserman-Schultz (D-Pembroke Pines), and will include pregnancy as a cause of discrimination covered by the proposed law.

Although the bill is well-intended, AIF does not support this legislation because it creates another layer of litigation in an area already well protected by a myriad of state and federal laws and private causes of action.

EDUCATION

Two major bills relating to charter schools are making their way through the House and Senate: HB 1279, sponsored by Representative Dennis Baxley (R-Ocala), and the Senate companion, SB 2242 by Senator Daniel Webster (R-Winter Garden). These bills are intended to ensure greater accountability for existing and future charter schools.

To review the full education report from yesterday, please click [here](#).

Also, on Wednesday, the Senate read on second reading, SB 2170, sponsored by Senator Bill Posey (R-Rockledge). It provides an alternative method for a school district to become a charter school district. No amendments were added.

AIF supports the expansion and development of charter schools in Florida. Charter schools are a cost-efficient and educationally effective to improve the quality of education in the state.

Earlier this week, the Senate Appropriations Committee passed SB 2062, sponsored by Senator Tom Lee (R-Brandon). The bill increases the total amount of corporate income tax credits that may be granted each state fiscal year for private school scholarships. Initially, this can result in 6,700 additional scholarships to K-12 schools.

AIF continues to monitor HB 703, sponsored by Representative Joe Pickens (R-Palatka), dealing with class-size reduction. One provision in this bill establishes the Florida Learning Access Grant (FLAG) program. The FLAG program provides a grant of \$3,500 to parents of K-12 children who wish to place their child in an eligible private school. This week the bill cleared the House Appropriations Committee.

AIF knows that educational enhancement is necessary for a workforce with higher skills. AIF supports an expansion of corporate tax credits and state grants for opportunity scholarships. These programs give parents meaningful choice for the education of their children. Furthermore, such legislation promotes greater competition, which has a beneficial effect on the quality of public schools.

Also noteworthy was recent action by Senate President Jim King (R-Jacksonville) to create of a special task force to examine issues of accountability with the state's voucher/scholarship program. Former Senate President John McKay, who was instrumental in prompting legislative approval for this innovative program, chairs the task force. According to Senator King, a few of the private schools accepting state scholarship students have experienced significant financial problems that have caused the schools to engage in some questionable business practices. In Senator King's view, the resulting controversy and criticism may undermine credibility of the program. "I feel that it is important for us to look into this problem so that it does not negatively affect any of the current or future scholarship recipients," explained the Senate president.

The task force will develop recommendations for a business and operational accountability system intended to provide assurances that the scholarship program operates responsibly and that participating schools exercise good stewardship of public funds.

Although it is too late in the session for the Senate president's task force to have a significant impact this year, it is likely that task force recommendations will prompt additional legislative scrutiny in the 2004 legislative session.

LOCAL GOVERNMENT MINIMUM WAGE

On Wednesday, the Senate read for the second time, SB 54, sponsored by Senator Lee Constantine (R-Altamonte Springs). The bill prohibits political subdivisions of the state from requiring employers to pay a minimum wage other than the federal minimum wage. The bill is now primed for passage in the Senate. The House companion, HB 321 by Representative Frank Attkisson (R-Kissimmee), is awaiting action on the House Special Order Calendar.

On balance, SB 54 represents an important step in the right direction, especially for the hospitality industry in Florida. As a matter of principal, however, AIF continues to oppose all costly living-wage mandates at the local level including those that re limited to commercial transactions involving local government entities.

- 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://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.