

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
INTERIM BRIEF**



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WEEKLY INTERIM LEGISLATIVE BRIEF FOR THE WEEK OF FEBRUARY 13 - 17, 2006

PRIVATE PROPERTY RIGHTS

On Wednesday, February 15th the Senate Judiciary Committee met to consider two proposed committee bills relating to eminent domain. Chairman Dan Webster (R-Winter Garden) noted from the outset of the meeting that the Committee would not consider amendments or testimony regarding the proposed committee bills. Chairman Webster stated that testimony and amendments would be considered at a later meeting.

Eric Maclure, Senate Judiciary Staff Director gave a description of PCB 7102. This proposal would tighten safeguards on private property rights through the following restrictions on eminent domain:

- Limit the use of eminent domain by counties and municipalities to traditional uses by modifying the general eminent domain provisions of chapters 127 and 166;
- Remove the legislative presumption that the exercise of the power of eminent domain in furtherance of a community redevelopment plan serves public uses and purposes;
- Limit the power of eminent domain to those purposes permitted under the proposed modifications to Chapters 127 and 166, Florida Statutes;
- Prohibit the transfer of property acquired by the power of eminent domain to private ownership except as permitted under the proposed modifications to Chapters 127 and 166, Florida Statutes;
- Restrict the home rule powers of charter counties and municipalities as it relates to the exercise of eminent domain.

Sen. Steven Geller (D-Hallandale Beach) noted that if he were voting on PCB 7102 today, he would vote no. Sen. Geller urged the Committee to consider the concerns of the Florida League of Cities and the Florida Association of Counties in drafting bill language. Sen. Geller believes that the Kelo decision should be narrowed but he also believes that the Senate should not go too far in trampling the rights of local governments. He further stated that he would vote for introduction of the bill, but asked to work with the Chair on the bill.

The Committee voted unanimously to introduce the bill.

The Committee also voted to introduce PCB 7112 which expresses legislative intent to propose a joint resolution amending the Florida Constitution as it relates to eminent domain. Chairman Webster noted that PCB 7112 is a shell bill and he does not believe that there is much desire to pursue a solution to the eminent domain issue via a constitutional amendment.

AIF is actively monitoring the debate on eminent domain and private property takings. Proper limitations and procedures must be established before local governments are allowed to take private property through the power of eminent domain.

CONSTITUTIONAL AMENDMENT REFORM

On Wednesday, February 15th the Senate Ethics and Elections Committee unanimously approved SB 26 by Sen. Jim King (R-Jacksonville). This joint resolution would require that constitutional amendments proposed by citizen's initiative must:

- Alter, amend, or repeal an existing article of the Constitution on the same subject and matter;
- Address a basic or fundamental right of a citizen of Florida; or
- Change the basic structure of state government as established in Articles II through V of the Constitution.

If passed by the legislature this proposal would then be placed on the ballot for the voters of Florida to approve. It takes a 3/5 vote from each chamber to pass a joint resolution. This reform is one of the ideas originally proposed by the legislature two years ago. It had come up during the previous two legislative sessions, but had not passed. The goal of this joint resolution is to address the ease by which Florida's Constitution is amended.

SB 26 will now be head by the Senate Judiciary committee.

AIF supports reforms to the process for amending the state Constitution by citizen initiative. Florida's Constitution is too easily manipulated by special interests, subverting the deliberation of public policy decisions and threatening the business community with the enactment of economically destructive programs and mandates.

The Ethics and Elections committee also passed SB 1244 (4 to 1) relating to Petition Fraud by Sen. JD Alexander (R-Lake Wales). This bill attempts to closely regulate the petition verification process by requiring that additional information be provided to a voter who signs a petition. The bill creates additional disclosure regulations for petition gathers and institutes criminal penalties for actions leading to petition and voter registration fraud.

One of the more controversial portions of the bill outlaws the paying of petition gathers paid by the number of petitions signed. Under this bill, paid petition gathers would be paid based on an hourly wage. During the meeting, Sen. Nan Rich (D-Sunrise) objected to the bill saying that she could not vote for a bill that so severely limited the gathering of petitions by citizen groups.

SB 1244's next stop is the Senate Criminal Justice committee.

The petition gathering process must be regulated in order to ensure that special interests do not break the law to get proposed citizen initiatives on the ballot. AIF supports most provisions in this bill, but is carefully monitoring the progress of this legislation in order to ensure that the process is fair and open for all groups.

LEGAL AND JUDICIAL

On Thursday, February 16th the Senate Transportation and Economic Development Appropriations Committee approved SB 262 by Sen. Mike Bennett (R-Bradenton) relating to the Administrative Procedures Act (APA). The APA allows a person to challenge the decisions of a state agency. The APA also provides for legislative oversight of agency rules. The APA also created the Joint Administrative Procedures Committee (JAPC) to be a check on legislatively created authority, as interpreted by executive agencies. JAPC is a joint standing legislative committee consisting of three House members and three Senate members.

SB 262 is now ready to be considered on the floor of Senate.

AIF supports the changes to the Administrative Procedures Act. Sometimes what the legislature intended for a law is lost in the translation by the state agency. Clarifying the role of the JAPC will make it harder for state agencies to incorrectly interpret legislation.

ENVIRONMENT

On Tuesday, February 14th the Senate Environmental Preservation Committee unanimously approved SB 1092 relating to Brownfields by Sen. Lee Constantine (R-Altamonte Springs). This bill makes changes to the Brownfields Redevelopment Act. Originally enacted in 1997 by the Florida Legislature, it developed a program designed to encourage local governments and responsible persons to voluntarily clean up and redevelop abandoned and underused commercial and industrial sites.

Some of the proposed changes include:

- An increase of the amount of credit from 35% to 50%; that may be applied against intangible personal property tax and corporate income tax for the voluntary cleanup costs of a contaminated Brownfield or dry-cleaning site and increases the amount of tax credit that may be granted to a tax credit applicant from \$250,000 to \$500,000 per year.
- Increases the percentage (from 10% to 25%) and amount of tax credit (from \$50,000 to \$500,000) that may be received by the taxpayer in the final year of the cleanup as an incentive to complete the cleanup.
- Requires Enterprise Florida to aggressively market existing Brownfields

SB 1092 will now be considered by the Senate Commerce and Consumer Services committee.

AIF supports Sen. Constantine's proposal to increase existing tax credit provisions which will create additional incentives for businesses to voluntarily cleanup eligible contaminated sites. Cleaning up Brownfields increases future job opportunities and economic growth for area residents, while at the same time restoring a region's environmental integrity.

ENERGY

The Senate General Government Appropriations Committee met on Thursday, February 16th and heard a presentation from the Florida Department of Agriculture entitled “Farm to Fuel.” Highlights of the presentation included:

- According to the National Association of State Departments of Agriculture – Ag Energy Work Group, “Agriculture will provide 25 percent of the total energy consumed in the United States by 2025 while continuing to produce abundant, safe and affordable food and fiber.” President George Bush Advanced Energy Initiative sets a national goal of replacing more than 75% of our oil imports from the Middle East by 2025. The Initiative also accelerates research in cutting-edge methods of producing “cellulosic ethanol” from agricultural waste products, such as wood chips, stalks, or switch grass.
- Florida depends almost exclusively on other states and nations for supplies of oil and gasoline. We use 8.6 billion gallons of gas per year and consumption is growing by 300 million gallons per year. Florida needs to begin diversifying its fuel. Florida is 1st in biomass production and two new ethanol plants are being built in Florida; one in Tampa and the other one in Manatee County. Corn is not the only crop used for ethanol; sugarcane, citrus, vegetables, cotton, potatoes and wheat can all be converted to ethanol. Biodiesel is a renewable fuel that can be manufactured from vegetable oils, animal fats, or recycled restaurant greases. These sources of fuel can be very beneficial to the agricultural community as it will increase farm income by adding value uses for crops, live stocks, agricultural residues, and byproducts. Continuing to grow these types of crops for fuels will have a major impact on rural development with many job opportunities being created through the processing of agricultural products and byproducts.
- Currently there are Federal tax incentives for commercial ethanol and biodiesel producers. Several states across the nation have ethanol production incentives in place. The Florida Department of Agriculture is recommending to the Legislature that they establish a “Farm to Fuel Grants Program” within the department to provide grants for research, development and demonstration of commercial applications of bio-energy technology. They are also recommending a credit against the tax imposed by Chapter 220 of twenty cents per gallon of ethanol or biodiesel produced using Florida grown commodities. Finally they recommend developing incentives for agricultural operations that establish a renewable energy-powered customer generation system to produce electricity for their own use and to supply excess electricity to the electric service provider.

AIF is in favor of finding alternative solutions to Florida’s dependency on oil for its energy needs and supports efforts to develop alternative fuels in Florida.

INFORMATION TECHNOLOGY

On Tuesday, February 14th the House State Administration Appropriations Committee heard a presentation from Dr. Jim Zingale, Director of the Department of Revenue (DOR), on how DOR has reengineered its processes with the use of IT and saved millions of dollars as well as 35 FTE. They had an 8 to 1 return on investment with SUNTAX, a new system driven by IT to collect 10 of their 13 taxes. The other three will be converted soon.

He complimented the Technology Review Workgroup (TRW) process, as well as the members for their willingness to appropriate the funds necessary for DOR to move forward on IT transformation. Dr. Zingale also discussed outsourcing training at DOR which will save a substantial amount. According to Dr. Zingale, it is more effective and produces quality results.

AIF believes that the more State government can improve its technical capabilities, the better services can be provided to citizens and businesses.

ECONOMIC DEVELOPMENT

Jeb Bush's final recommended budget as Governor of Florida was presented to the Florida House and Senate this week and in part reflects the state's healthy economy, which has resulted in an unexpected windfall of tax revenue filling state coffers. One of his priorities is a \$630 million economic stimulus package that includes a substantial increase in investment for economic development programs under the Office of Tourism, Trade and Economic Development.

Economic development spending for programs recognized as Florida's core economic development tools, are recommended to receive about double the revenue as compared with last year, totaling nearly \$78 million. Continuation funding for Enterprise Florida is also included and an increase in the valuable Quick Action Closing Fund is suggested to increase from \$10 to \$50 million. That fund provides dollars for last minute contingencies that can arise when closing deals for corporate relocations.

The Governor also advocates a seven fold increase, totaling \$55 million, to insure that Florida remains the center of the country's effort in space exploration, far beyond the current shuttle program. Other recommended areas receiving special attention include new money for developing solutions to affordable housing, more venture capital tax credits, and added dollars for military base protection against federal base closure activities

One area of debate in the Governor's plan is their recommendation to divert nearly \$25 million from the state's transportation trust fund into general revenue on a recurring annual basis and for no apparent reason. During hearings in both the House and Senate, legislators questioned the move based on testimony earlier in the month from the Secretary of the Florida Department of Transportation (FDOT). Secretary Denver Stutler explained there is serious anticipated slippage in the existing FDOT five year work program because of dramatically increasing road construction costs that the department does not have the necessary revenue to offset.

AIF applauds the Governor's office for their commitment to economic development and supports all the incentive programs, which will go a long way in improving the already booming business climate of our state.

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.