DAILY BRIEF

From April 20, 2010

Today was the last day of regularly scheduled committee meetings in the Senate - meaning that a number of bills that have not been passed out of all their committees of reference could be in real jeopardy of not passing. However, bills that have passed at least one committee of reference can be withdrawn and taken straight to floor if deemed a priority for the presiding officers.

The budget conference process continued late into the evening as legislators work hard on finding common ground. In the area of transportation and economic development, major progress is being made although several issues remain to be closed out. One issue that appears to be settled is how much will be swept out of the state's Transportation Trust Fund to plug holes in the budget. House and Senate budget negotiators agreed this afternoon to sweep $160 million out of the trust fund with the caveat that if the state receives federal Medicaid matching funds $40 million would be put back in the trust fund. AIF is disappointed by this raid as it will certainly cause the loss of jobs and it will call into question the completion of important transportation projects across the state. In fact, AIF participated in a rally to save transportation jobs earlier today alongside other members of the business community.

Both the House and Senate will be in session on Wednesday for the majority of the day.

Insurance

During today's meeting of the full House of Representatives, members considered HB 447 by Representative Bill Proctor (R-St. Augustine) on second reading. Known as the "consumer choice" bill, a top priority for AIF this legislative session, HB 447 would provide homeowners with the option of purchasing their homeowners' insurance from a private insurance company using rates higher than their approved rates in lieu of the state's insurance company, Citizens. By encouraging private insurance companies and their private claims-paying capital to return or continue to do business in Florida, this bill will help to reduce the burden of "hidden hurricane taxes" on businesses insurance premiums to fund Citizens' claims paying deficits. The bill also contains other property insurance provisions designed to address claims fraud and abuse and other cost drivers leading to higher rates.

Four amendments were offered to HB 447 this afternoon, most of which were technical in nature and adopted without debate or question. Perhaps the most substantive amendment introduced was a provision by Representative Alan Hays (R-Umatilla) that would allow an insurance company to implement a yearly rate increase of 10% for each policy issued until the company is deemed "financially sound". Financially sound, as defined in the bill, means that a company's reserves, reinsurance, and available funding source are sufficient to pay all claims without resorting to a Citizens surcharge, emergency assessment, state revenue, or other funding source. Representative Hays decided to withdraw the amendment during questioning when it became apparent that policy holders may be paying too much in insurance premiums and not receiving adequate coverage.

During debate, Democratic members expressed concern with provisions surrounding maximum rate increases, payment of insurance claims, sinkhole coverage, and uniform mitigation verification. During the question portion of HB 447's reading, Representative Martin Kiar (D-Parkland) asked the sponsor why the legislature should support this measure since the Governor has repeatedly vowed to veto it. Representative Proctor replied that it was a great piece of legislation with good implications for Florida's insurance market and that all members should support this bill.

HB 447 was subsequently rolled over to the third reading where it will receive a final vote by members of the House.

AIF SUPPORTS legislation that will help reinvigorate the property insurance market and help to keep policies out of Citizens; thus, reducing businesses' exposure to hurricane taxes to pay Citizens' claims paying deficits.

Today, the Senate Military Affairs and Domestic Security Committee unanimously passed SB 648 Relating to Building Safety by Senator Mike Bennett (R-Bradenton). This bill contains language regarding insurance mitigation inspections, including definitions of individuals qualified to perform them. This is an important issue for insurance companies that are required by law to give premium credits to homeowners based on the amount of safety mitigation incorporated into a structure. Recently, these inspections have been prone to fraud as those engaged in the inspection process frequently lied about the presence of safety inclusions.

The bill was amended to include certain standards of training for home inspectors, and also contained language requiring anyone authorized to make such inspections (architects, engineers, builders, building inspectors or home inspectors) to perform these inspections themselves - and not delegate the responsibility to an employee. That language did not sit well with the House sponsor, Representative Gary Aubuchon (R-Cape Coral) who is a home builder, and while the amendment as well as the bill passed out of the Senate committee, it faces further changes at its next stop before being acceptable to both sponsors.

SB 648 is now scheduled to proceed to the Senate Education Pre-K - 12 Committee. The House measure, HB 663 by Representative Gary Aubuchon (R-Cape Coral), is ready for consideration on the House floor.

AIF SUPPORTS legislation that deters abuses associated with insurance mitigation fraud. From an actuarial perspective, Florida's insurance companies simply cannot afford to provide mitigation discounts to policyholders that do not adequately equip their homes.

Space

Today, the Senate Governmental Oversight and Accountability Committee unanimously passed SB 2606 Relating to Space Florida by Senator Lee Constantine (R-Altamonte Springs). This bill revises the organization in a number of ways, most notably by reducing the number of Space Florida Board members from 19 to 15 and replacing some of the government representatives with industry representatives. This reorganization of Space Florida's board will allow them to be more industry-focused and ensure that there is the expertise to compete for aerospace jobs throughout the nation.

SB 2606 has one final stop in the Senate Transportation and Economic Development Appropriations Committee before heading to the Senate floor.

AIF SUPPORTS legislation to reorganize the board structure of Space Florida – the state's aerospace development organization.

Legal & Judicial

Today, the House of Representatives unanimously passed SB 2440 Relating to Liability Releases by Senator Mike Bennett (R-Bradenton). This legislation will clarify a Florida Supreme Court ruling relating to a parent's ability to sign waivers for their children to participate in certain recreational activities. SB 2440 was very important for many AIF members in the tourism and recreation industries. This bill provides more clarity for the use of waivers, and should generate more predictability in these types of cases.

SB 2440 will now be sent to the Governor's desk for his approval.

AIF SUPPORTS legislation that begins to address this important situation for Florida's tourist and recreational businesses by providing parents the ability to sign waivers so that their children can participate recreational activities.

Seaports

The Senate Military Affairs & Domestic Security Committee unanimously passed SB 274 Relating to Domestic Security today by Senator Mike Bennett (R-Bradenton). Perhaps the most significant element of this bill for AIF is the requirement that Florida seaport security standards be linked to the federal seaport security standards. This has been a top priority of the AIF Florida Maritime Council for three years and we have made great strides in achieving the total transition. The measure, however, is met with strong resistance by the Florida Department of law Enforcement (FDLE) and the Governor's Office of Drug Control. Members of the committee expressed great concern that the refusal of Florida's executive agencies to match the federal standards was very expensive for Florida employers and workers.

SB 274 is now scheduled to be heard by the Senate Criminal Justice Committee for further consideration.

AIF strongly SUPPORTS legislation significantly reduces the costs to employers conducting business at Florida's public seaports.

During a meeting of the Senate Policy and Steering Committee on Ways & Means today, members unanimously passed SB 2000 Relating to Florida's Ports by Senator Jeremy Ring (D-Margate). This critical bill enhances the positioning of our state's seaports as global economic drivers of the future – particularly in light of the upcoming expansion of the Panama Canal and the resulting increased international trade activity in the ports. The bill creates a conceptual permit system which would allow for the issuance of an umbrella permit that ties together a series of individual environmental permits and authorizations normally needed for port operations.

SB 2000 has passed its final committee stop and will now proceed to the Senate floor for consideration. The House companion, HB 963 by Representative Lake Ray (R-Jacksonville), will now proceed to the House floor for a full vote.

AIF SUPPORTS legislation that eases the regulatory and permitting burdens of our state's 14 deep water ports.

Business Regulation

Today, the Senate Governmental Oversight and Accountability Committee unanimously passed SB 1844 Relating to Rulemaking by Senator Mike Bennett (R-Bradenton). The bill requires an agency to prepare a statement of estimated regulatory costs (SERC) prior to the adoption, amendment, or repeal of any rule, not just on those having an impact on small business or those requested by a substantially affected person. Additionally, the measure would also cause an agency's failure to prepare a SERC on any rule to be a material failure. The bill also expands SERC requirements to include an economic analysis that demonstrates if a rule:

- Creates a regulatory environment that impedes or hinders economic growth and private-sector job creation;
- Expands the growth of state government that is not provided in the enabling statute for the rule;
- Increases regulatory costs to small businesses; and
- Is likely to adversely impact private-sector job creation or result in higher unemployment.

The bill requires the Joint Administrative Procedures Committee (JAPC) to determine whether a SERC prepared by an agency complies with the requirements for an economic analysis, as well as existing requirements for a SERC. If the economic analysis portions of the SERC indicate the proposal will perform any of the actions reviewed in the economic analysis, the rule may not take effect until it is submitted to the legislature for review at the next regularly scheduled session. The legislature may reject, modify, or take no action pertaining to a rule. If the legislature takes no action, the rule will take effect upon adjournment sine die by the Legislature. Furthermore, this bill signals a warning to state agencies that do not fully contemplate and report the implications that administrative rules have on Florida's economic freedom.

SB 1844 is now ready to be heard in the Senate Policy & Steering Council on Ways & Means. The House companion, HB 1565 by Representative Chris Dorworth (R-Lake Mary), has been placed on the House calendar.

AIF applauds Senator Bennett for his commitment to creating a regulatory environment that is not destructive, but rather complementary to the Florida business community.

Energy

Today, the Senate Policy and Steering Committee on Ways and Means unanimously passed SB 2322 Relating to the Property Assessed Clean Energy (PACE) Program by Senator Mike Bennett (R-Bradenton). This bill would allow for local governments to offer financing to individual residential, commercial and industrial property owners for energy conservation and efficiency improvements, renewable energy improvements and wind resistance improvements. The financing would operate as a special assessment on the owner's property tax bill and spread out over a period of time. Also, the program is strictly voluntary and thus local governments would not be compelled to abide by a mandate.

SB 2322 has passed its final committee of reference and is now ready for action on the Senate floor. The House companion measure, HB 7179 by Representative Steve Precourt (R-Orlando), is scheduled to be considered on the House floor.

AIF SUPPORTS legislation that incentivizes property owners to improve energy efficiency through sensible and affordable means.

Environmental

Today, the Senate Policy and Steering Committee on Ways & Means approved SB 550 Relating to Environmental Protection by Senator Lee Constantine (R-Altamonte Springs). Known as the "Florida Water Bill.", this proposed legislation includes recommendations from the Senate Select Committee on Florida's Inland Waters and the Senate Environmental Preservation & Conservation Committee interim report. In its present form, provisions found within SB 550:

- Reorganize various provisions of ch. 373, F.S., into a new part VII; this was important to many of our AIF members;
- Permit funding for alternative water supply projects through the State Board of Administration (SBA); this is an unique way to fund some projects since alternative water supply projects have not been adequately funding in the past few years;
- Expand the definition of alternative water supply to include conservation project – again, supported by AIF;
- Add a "Blue Belt" assessment criterion to the alternative water supply ranking criteria;
- Include Life-of-the-mine permit changes;
- Establish criteria for the development of a statewide storm water management rule;
- Increase fees for Miami-Dade County Lake Belt Mitigation;
- Expand the definition of "pollution" to include nutrients when their concentrations in water bodies cause imbalances in the ecosystem;
- Provide specific authority to the Department of Environmental Protection (DEP) to establish water quality criteria to limit nutrient loading in water bodies;
- Direct the DEP to create numeric nutrient criteria for the state that will fulfill the U.S. Environmental Protection Agency's (EPA) mandate under the federal Clean Water Act;
- Direct that $200 million in bonds may be issued for sewage collection, treatment and disposal in the Florida Keys Area of Critical State Concern;
- Provide specific standards that central wastewater facilities and onsite sewage treatment and disposal systems (septic systems) in the Florida Keys Area of Critical State Concern must meet;
- Permit residents of the Monroe County to adopt by referendum a 1-cent surtax to pay for storm water and wastewater upgrades;
- Extend the deadline of compliance for central wastewater facilities and septic systems upgrades to December 31, 2015 from July 1, 2010;
- Provide procedures for removal of the designation of the Florida Keys Area of Critical State Concern once all requirements of the Administration Commission are met;
- Create an inspection system for septic tanks instead of the regional management entities (RME) which was in the last version of the bill;
- Establish a grant program to fund repairs and replacement of septic treatment systems for those who are at a certain income level;
- Direct the DEP to submit a report to the Governor and Legislature on the effects of reclaimed water use by February 1, 2012;
- Clarify that wastewater facilities contributing flow to another wastewater facility that discharges to an ocean outfall must meet the 60-percent reuse requirement for any diverted quantity of wastewater flow. The percentage of the diverted flow processed as reuse will be applied to the facility discharging to an ocean outfall;

- Rename the "Florida Water Pollution Control Financing Corporation" as the "Florida Water Pollution Control and Drinking Water Financing Corporation";
- Add and modify definitions to conform to the creation of the new corporation and its expanded duties, provides rulemaking authority, and specifies additional criteria concerning loan recipients' ability to repay their loans;
- Direct the University of Florida's Water Institute to serve as the lead advisory body to provide the Legislature scientifically-based policy recommendations for water resources;
- Direct the Building Commission to develop recommendations that result in water conservation;
- Reinforce the WMDs duty to negotiate disputes in good faith before proceeding to litigation against other governmental entities;
- Require the lining of all construction and demolition debris landfills constructed after July 1, 2010; and
- Clarify penalties for damaging or destroying any drainage works constructed in any WMD.

Although the committee was running short on time, Senator Constantine did receive some questions from Senators Joe Negron (R-Stuart) and Mike Bennett (R-Bradenton) on the section of the bill dealing with septic tanks. As originally filed, the bill included language on septic tanks that was controversial for the business community and potentially costly to consumers. Senator Constantine removed that language dealing with the creation of Responsible Managing Entities or RMEs, with a septic tank inspection program to be implemented in five years. Even with this concession some senators expressed concerns.

SB 550 has passed its final committee stop and is scheduled for the Special Order Calendar on Thursday, April 22nd.

AIF would like to thank Senator Constantine for this consensus driven legislation that will benefit both the environment and businesses in our state.