



DAILY BRIEF

From April 14, 2011

The politically sensitive issue of state-wide immigration reform is a force to be reckoned with in Florida. Despite overwhelming protest by stakeholders, including members of the business community, the bill continues to advance through the Legislature; however, AIF will continue to lead the charge in softening mandated E-Verify provisions that will encumber Florida's businesses. With the recent court decision to overturn Arizona's immigration reform proposal, coupled with mounting opposition by AIF and the business community, the fate of Florida-style reform will undoubtedly come down to the final days of the 2011 session.

Nonetheless, AIF's Florida Maritime Council (FMC) was successful in overseeing the passage of one of its top priorities in the House today – HB 283 Relating to Seaport Security by Representative Dana Young (R-Tampa). Representative Young is to be commended for her leadership and direction in passing legislation that will reduce red tape and regulatory burdens in Florida's ports, thus making Florida a more attractive place for doing business.

Seaports

Today, the full House overwhelmingly passed HB 283 Relating to Seaport Security by Representative Dana Young (R-Tampa). As we have previously reported, this bill is a high priority for AIF and our members of our Florida Maritime Council who regularly conduct business in Florida's seaports. The bill removes expensive and duplicative security background screening procedures and aligns Florida's security measures with the federal standards administered through the Department of Homeland security. This matters to businesses because the bill will significantly lower the cost per employee working on each port by eliminating the state background checks which are unnecessary since federal background checks are already conducted. This will help Florida companies across all industries lower the transportation and shipping costs of the supplies they purchase and the goods they sell.

HB 283 will now proceed to the Senate for consideration by its members. The Senate companion, SB 524 by Senator Jack Latvala (R-St. Petersburg), awaits hearing in the Senate Budget Committee.

AIF SUPPORTS legislation to reduce red tape and regulatory burdens, such as duplicative security credentialing, which encumber businesses in their daily work. AIF salutes Representative Young for her leadership in passing legislation that will undoubtedly make Florida a more attractive place for doing business.

The Senate Budget Committee unanimously passed SB 768 Relating to Seaports by Senator Jeremy Ring (D-Margate) today. Construction to widen and modernize the Panama Canal is nearing completion, and seaports on the entire U.S. coastline are considering their options on how to best position themselves to participate in what is expected to be an economic windfall in maritime transit of oil, foodstuffs, consumer goods, and other cargo.

SB 768 includes several financing and permitting provisions to assist seaport infrastructure improvement projects that will make Florida's 14 seaports more globally competitive. In addition the bill requires the Department of Environmental Protection (DEP) to issue a notice of intent for a port conceptual permit within 60 days after receiving the application. DEP is supportive of this provision and voiced support for the legislation in Committee. The bill was amended along the committee process that would add Port Citrus to the 14 ports already outlined within the legislation.

SB 768 will now ready for action on the Senate Floor. The House companion, HB 399 by Representative Lake Ray (R-Jacksonville), has also passed its final committee of reference this week and will proceed to the House Calendar.

AIF SUPPORTS efforts to include port incentives in any economic development proposals that are considered during the 2011 Session. Florida's 14 deepwater seaports are significant economic drivers for the state and must be provided with adequate funding to promote development and growth.

Environmental

Today, the House State Affairs Committee approved HB 239 by Representative Trudi Williams (R-Ft. Meyers). This bill addresses the federal imposition of numeric nutrient criteria (NNC) by the Environmental Protection Agency (EPA). Following the adoption of a strike-all amendment today, the bill provides for the following:

- Requires the Florida Department of Environmental Protection (DEP) to enter the rulemaking process to revise the dissolved oxygen criteria that will take into account naturally-occurring variability in Florida waters;
- Places a prohibition on state implementation of EPA's numeric nutrient criteria rules; however, compromising language limits that prohibition to instances where the EPA's regulations are more stringent than necessary to protect the biological community and designated use of a water body; *and*
- Codifies a new state classification of surface waters (Human Uses and Aquatic Life Uses) and is a major improvement over the state's overly-simplified current classification system.

The only no vote was by Representative Rick Kriseman (D-St. Petersburg); however, Representative Kriseman explained that he hopes to vote for the bill by the time it gets to the Floor.

HB 239 has passed its final committee of reference and will now proceed to the House Calendar. The Senate proposal, SB 1090 by Senator Charlie Dean (R-Inverness), was postponed in the Senate Environmental Preservation and Conservation Committee today.

AIF encourages the Florida Legislature to engage and support our Congressional delegation in their efforts to stop the U.S. Environmental Protection Agency's (EPA) imposition of unreasonably restrictive water quality standards only on the State of Florida. These proposed federal standards are unscientific and costly for businesses and consumers. Furthermore, AIF commends Representative Trudi Williams for her leadership on this very important issue.

Insurance

Today, the House Economic Affairs Committee approved HB 803 Relating to Property and Casualty Insurance by Representative John Wood (R-Haines City) This comprehensive property insurance bill is a top AIF priority for the restoration of the private residential insurance market, which is essential to reducing Citizens and its potential deficit taxes. Further, HB 803 includes provisions to eliminate fraud abuse in claims relating to mandatory sinkhole coverage. With the adoption of an amendment in Committee today, HB 803 now includes the reinsurance cost expedited rate filing provisions found within HB 885 – another top insurance priority for AIF this session.

HB 803 will now advance to the House Floor for consideration. The Senate companion, SB 408 by Senator Garrett Richter (R-Naples), has been placed on the Senate Calendar.

AIF SUPPORTS legislation which makes sinkhole coverage optional to the insured; reduces the time frame to file hurricane claims from 5 years to 3 years after the hurricane; increases solvency requirements for insurance companies; eliminates public adjusters' abuses; and repeals the current requirement that property replacement costs be paid up front and replace with the payment of actual cash value with a holdback until repairs are actually completed.

Growth Management

The Senate Environmental Preservation and Conservation Committee considered and passed two growth management bills today. The first, SB 1904 by Senator Thad Altman (R-Melbourne), focuses primarily on the optional sector plan process. The Committee Substitute (CS) modifies the optional sector planning process in part to:

- Make the program permanent by removing its status as a pilot program;
- Substantially remove the role of the Department of Community Affairs (DCA);
- Revise the role that population projections ("needs assessment") plays in the sector planning process; *and*
- Allow developments of regional impact (DRIs) to operate under either the sector planning process or the DRI process.

The second growth management measure passed today - SB 1122 by Senator Mike Bennett (R-Bradenton) – aims to reduce state oversight of land use and return most of the growth management regulation to local government. Specifically, the bill:

- Makes concurrency for parks and recreation, schools, and transportation facilities optional for local governments.
- Applies an expedited comprehensive plan amendment process statewide.
- Deletes the requirement that comprehensive plans be financially feasible.
- Deletes the twice a year limitation on comprehensive plan amendments.
- Specifies that population projections should be covered for a 10-year window and act as a Floor for requisite development except for areas of critical state concern.
- Abolishes 9J-5, F.A.C., and incorporating many of the substantive provisions into the bill.

SB 1122 has one final stop in the Senate Budget Committee while SB 1904 will now advance to the Senate Transportation Committee. Furthermore, SB 1122 is expected to be combined with SB 1904 to become the major growth management reform bill of the Senate in 2011.

AIF SUPPORTS efforts to eliminate or re-address the transportation concurrency requirements currently in statute. Furthermore, AIF SUPPORTS repeal of mandatory school concurrency and where it is voluntarily implemented, it should only be done on a district-wide basis.

Taxation

Traditionally, the Legislature has approved “Sales Tax Holidays” for a number of years, notably from 2005 through 2007, and then again in 2010, to allow consumers to purchase tax-exempt goods for a given period of time. This year, the Senate has introduced SB 508 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale). This measure will reinitiate the Sales Tax Holiday between August 12th and August 14th, 2011. Items free from sales tax in the bill cover clothing, text books and other school supplies. The bill passed the Senate Education Pre-K - 12 Committee with unanimous consent.

SB 508 will now advance to the full Senate Budget Committee. The House measure, HB 733 by Representative Elizabeth Porter (R-Lake City), has already passed the House & Senate; however, the Senate has not accepted the House’s proposal, thus calling for conference committee to work out their differences.

AIF SUPPORTS increasing business activity by allowing Floridians to purchase essential school supplies and other necessities without paying sales tax.

Today, the House State Affairs Committee took up HB 887 Relating to Communications Services Tax by Representative Chris Dorworth (R-Heathrow). Representative Dorworth explained that the bill simply allows the dealers of communications services to round the tax up when the third decimal is greater than 4. He offered a strike-all amendment that makes minor changes to eliminate any revenue impact of this rounding algorithm. The amendment passed with no objections.

There were no questions or debate and the bill passed unanimously. HB 887 will now be placed on the House Calendar. The Senate companion, SB 1198 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale), awaits consideration by the Senate Budget Committee.

AIF SUPPORTS legislation that will eliminate antiquated and cost prohibitive tax criteria for multistate communications dealers.

Legal & Judicial

The Senate Governmental Oversight and Accountability Committee passed SB 1610 Relating to Minimum Wage by Senator Nancy Detert (R-Venice) largely along party lines today. Each year, the Agency for Workforce Innovation (AWI) calculates the state’s minimum wage based on the formula provided in the Florida Constitution. The law requires that the minimum wage be increased based on increases in inflation and can never be lower than the federal minimum wage. Unfortunately, in the past few years, Florida’s economy has experienced a period of deflation and the law is silent as to how periods of deflation are to be considered in the calculation. During these times, AWI has completed its calculation using the deflation but has established Florida’s minimum wage equal to the federal level. Not surprisingly, labor groups have sued the state over this calculation.

Fortunately, SB 1610 will clarify the calculation of the minimum wage for economic conditions that are not already expressed in the state constitution. The bill does not lower the minimum wage or conflict with the Constitution. It simply brings clarity for the AWI in its calculations when economic conditions occur that the constitution did not address.

SB 1610 will now advance to the Senate Budget Committee for further consideration by its members. The House proposal, HB 1425 by Representative John Tobia (R-Melbourne), is currently in the House Economic Affairs Committee.

AIF SUPPORTS legislation to bring clarity and predictability to this process that will avoid litigation and create a fair and balanced approach to the calculation of minimum wage in Florida.

The House Judiciary Committee overwhelmingly approved HB 479 Relating to Medical Malpractice by Representative Mike Horner (R-Kissimmee) today. By strengthening standards relating to medical malpractice claims, this legislation will:

- Create an "expert witness certificate" that an expert witness who is licensed in another jurisdiction must obtain before testifying in a medical negligence case. *This will prevent the admission of unqualified expert testimony from individuals who may not be competent in these types of cases.*
- Provides that a plaintiff must prove that the health care provider breached the standard of care by clear and convincing evidence. *This provision will level the playing field and ensure that all pertinent facts are brought forth in the consideration of claims.*

The House proposal, HB 479 has passed its final committee of reference and will now advance to the House floor. The Senate measure, SB 1590 by Senator Alan Hays (R-Umatilla), is currently in the Senate Budget Committee.

AIF SUPPORTS proposals to discourage fraud abuses associated with medical malpractice claims. Current practices invite fraud and subsequently higher health care-related costs for Florida employers. AIF commends Senator Hays for his hard work and leadership on this very important issue.

Immigration

Today, the House Economic Affairs Committee passed, by a vote of 11-7, HB 7089 Relating to the Enforcement of Immigration Laws by the House Judiciary Committee. The bill would mandate that Florida employers use the Federal E-Verify program to authenticate the eligibility of potential employees to work. In addition, the bill allows law enforcement entities to check the legal status of suspected unauthorized individuals in certain situations.

A lively debate took place between Legislators who felt passionate on both sides of the bill. Proponents of the bill contend that the bill will help curtail illegal immigration into the state while opponents fear the bill will cause racial profiling.

Public debate was all but exclusive to those in opposition of HB 7089. AIF, along with numerous other business associations, testified in opposition. Mandating the burdensome and flawed E-Verify program on Florida's businesses was the main point of opposition for the business community. Opponents further argued that the enactment of the bill would foster job loss throughout the state. AIF maintained that in these tough economic times the last thing the state's employer community needs is a burdensome Federal program mandated on job creators. Representatives Frank Artiles (R-Miami) and Jeanette Nuñez (R-Miami) broke party lines and voted in opposition to the legislation.

HB 7089 is now ready to proceed to the House Floor. AIF will continue to work with Legislative leadership to address provisions associated with the mandated use of E-Verify on Florida's employers.

AIF is OPPOSED to any legislation that mandates the burdensome and flawed E-Verify on Florida's employers. While AIF supports a workable electronic employment verification system that both large and small employers can use alike to verify the legal eligibility of their workforce, E-Verify in its current form is not ready to be mandated on Florida's businesses.

Economic Development

Today, the House State Affairs Committee considered HB 1231 Relating to Telecommunications by Representative Mike Horner (R-Orlando). After being recognized by Chairman Seth McKeel (R-Lakeland), Representative Horner and Representative Allan Williams (D-Tallahassee) introduced the bill. Representative Horner explained that the bill completes retail deregulation of wire line telecommunication services and maintains the role of the Public Service Commission (PSC) in resolving wholesale disputes between service providers. Representative Williams went on to show that the number of connections affected by the bill is only 14% since customers are rapidly migrating to the many unregulated options available to them. Representative Williams asked for the support of the members because the measure would increase competition and prove beneficial to consumers.

AIF's Vice President of Governmental Affairs Jose Gonzalez waived his time in support of the bill. There was no debate and all of the members voted in favor of the bill.



HB 1231 will now be placed on the House calendar for second reading. The companion bill, SB 1524 by Senator David Simmons (R-Altamonte Springs) is in the Senate Budget Committee agenda for Friday, April 15th at 1:30 pm.

AIF SUPPORTS legislation that modernizes Florida's communications laws and empowers consumers, not state regulation, to pick winners and losers. Further, AIF supports these much-needed reforms to keep and create jobs, and to spur investment, as Florida competes with states that have already created an attractive investment environment.

Business Regulation

Today, the House Judiciary Committee passed HB 241 Relating to Wage Protection by Representative Tom Goodson (R-Titusville). This legislation aims to address "wage theft", a term used to describe the failure of an employer to pay any portion of wages due to an employee. Present federal and state laws provide extensive protection from wage theft through various acts including the Federal Fair Labor Standards Act and Florida's minimum wage laws; however, counties and municipalities have broad home rule powers that allow the local governments to enact ordinances. To provide absolute clarity in cases relating to wage theft, HB 241 provides that authority is expressly preempted to the state. Any local ordinances, including those already enacted, would be nullified by the implementation of HB 241.

The bill was passed largely along party lines, with Republicans voting favorably and Democrats in opposition.

HB 241 will now proceed to the House Calendar. A similar Senate measure, SB 982 by Senator Jim Norman (R-Tampa), is now in the Senate Judiciary Committee.

AIF SUPPORTS legislation that will clarify the state’s authority to pre-empt local governments from regulating wage theft. A “patchwork” arrangement of local ordinances provides confusion and uncertainty to Florida’s employers.

Health Care

Today, the Senate’s version of comprehensive Medicaid reform passed the full Senate Budget Committee. SB 1972 by Senator Joe Negron (R-Palm City) will substantially reform the manner in which Florida's Medicaid Program is administered. Senator Negron noted that the managed care model, which has been identified with a negative connotation, is where two-thirds of the state’s existing Medicaid patients currently reside. “We started with a premise that the benefits we pay for our friends and neighbors in Medicaid shouldn’t be lower than the people who pay the bills. But they shouldn’t be higher”, he explained.

Senator Negron touched on the top issues addressed in the proposal, which included the following:

- Ensures every Medicaid recipient has a doctor. Many recipients are confused about how to access a primary care provider and therefore end up receiving services in a more expensive setting - an emergency room;
- Allows recipients to take the funding the state would have provided for their care and allow them to purchase coverage on their own;
- Increases reimbursement beginning in 2013 to physicians caring for the state's neediest citizens; *and*
- Enhances legal protections for providers that choose to partner with the state to care for our Medicaid recipients

Senator Negron further noted that many of the changes being made to the Medicaid program will require a federal waiver, but he feels confident, based on how the federal government has addressed waivers requested from other states, that Florida will receive approval. If a waiver isn't secured, the proposal lays out a process for the state to operate its own Medicaid Program.

Following discussion and debate, the committee approved the measure by a vote of 17-4.

SB 1972 has now passed all of its committees of reference and will head to the Senate floor. On the House side, the Medicaid reform proposals - HB 7107 and HB 7109 by the House Health and Human Services Committee – have already passed the full House. It is expected that a conference committee may be appointed to hash out a compromise between the two plans.

AIF SUPPORTS the Legislature’s plan to make bold changes to the Medicaid Program by streamlining this highly fragmented delivery and payment system. The House & Senate proposals implement efficiencies and accountability to enable the state to have budget predictability with this program moving forward.