DAILY BRIEF

From March 7, 2012

With two full days remaining in the 2012 Legislative Session, the House and Senate have all but solidified a compromise for the year's largest economic development proposal. HB 7087, which is covered extensively in this edition of the Daily Brief, will provide a number of economic development incentives and tax relief measures designed to spur job creation in Florida. AIF is a major proponent of this package and anticipates that this comprehensive measure will see final passage in the coming days.

A number of AIF's top priorities remain on the horizon, including personal injury protection (PIP) reform and unemployment compensation tax relief. You won't want to miss the *Daily Brief's* extensive coverage of the issues most important to you and your business.

Economic Development

The Senate Budget Committee unanimously passed HB 7087 Relating to Economic Development by the House Finance & Tax Committee. This legislation is the main economic development package for 2012, which includes a number of issues important to AIF including the reauthorization of the New Markets Tax Credit program as well as an expansion of the state's corporate income tax exemption. Specifically, AIF has worked diligently to support the New Markets program, one that has proven very successful in providing economic development capital in some of the state's most needy areas. In addition, the package includes important exemptions from taxes for manufacturing and electricity use for manufacturers and packing houses, as well as the expansion of the corporate income tax exemption from $25,000 to $50,000 for Florida businesses.

Another incredibly important provision included in this package reduces the threshold by which manufacturers must show expansions in their productivity in order to receive a sales tax exemption on the inputs used for their operations. Currently law, requires manufacturers to show a 10 percent increase in production, the bill would reduced that threshold to 5 percent.

HB 7087 is now ready to be considered on the floor of the Senate.

AIF SUPPORTS this legislation because of the good incentives it includes for a number of target industries of Florida. The provisions in this bill will help attract and retain businesses in our state – a key goal for Governor Scott and members of AIF.

Taxation

On Wednesday, the full Senate took up and overwhelmingly passed HB 103 Relating to Transfer of Tax Liability by Representative John Wood (R-Haines City).

This legislation changes the process for purchasing a business that may have an unpaid tax. Currently, the transferee assumes the tax liabilities unless an exception applies. Today there are three different statutes that apply to tax liability, one for sales tax liability, and one for communications services tax and another for state taxes in general. The bill repeals the two specific statutes and amends the statute relating to all taxes owed to the state.

The bill allows the transferee to take the business without assuming the transferor's liability under either of these circumstances:

- If the transferor obtains a certificate of compliance for the Department of revenue that the business owes no back taxes, or;
- If the transferee requests an audit by the Department of Revenue within 90 days to find out that the transferor is not liable for any outstanding taxes.

The Senate measure – SB 170 by Senator Thad Altman (R-Melbourne) – was brought forward and substituted by HB 103 for final passage. HB 103 will now proceed to the Governor for final approval.

AIF supports the bill because it makes Florida more attractive for potential buyers of businesses that have closed by providing certainty on not having to assume any outstanding tax liabilities or clarifying the maximum tax liability if the buyer agrees to assume them.

Health Care

On Wednesday, the Senate took up HB 711 Relating to Sale or Lease of a County, District, or Municipal Hospital by Representative Ed Hooper (R-Clearwater). The bill was amended with a "strike-all" provision and subsequently returned to the House. As amended HB 711 would increase the requirements that the governing board of a public hospital must adhere to in the sale or lease of a public hospital.

Currently, the authority to negotiate a sale of a hospital lies with the governing board that is selling the hospital and the sale or lease is allowed if the transaction is in the best interest of the public.

The "strike all" approved maintained a number of provisions in the House bill including a requirement that every county, district or municipal hospital evaluate the continued ownership of the hospital by December 31, 2012 even if a sale or lease is not being considered. The evaluation would not be required if the hospital issued a public require for proposal for sale or lease on or before 2/1/2012.

The new provisions of the strike all:

- Requires the governing board to file a petition for the approval of the sale with the Agency for Health Care Administration (AHCA) and requires AHCA to issue a final order approving or denying the petition within 30 days of receiving it.
- Allows an interested party to seek judicial review of the decision with the courts and the court must affirm the decision of AHCA unless the decision was clearly "erroneous."
- Requires half of the net proceeds of a sale to be placed into a health care economic development trust fund, which is controlled by the county commission. Distribution of the funds must be coordinated with the Department of Economic Opportunity for the purpose of promoting health care jobs, expanding health care educational programs, or advancing commercialization of health care research in the community; *and*
- Requires half of the net proceeds to fund indigent care services, including primary and specialty health services, outpatient and inpatient care as well as behavioral health provided by hospitals in the community.

Following passage in the Senate, the House concurred with the Senate's changes and approved the bill for final passage. HB 711 will now proceed to the Governor's desk for his signature.

AIF SUPPORTS legislation that will ensure that the taxpayer and the community are protected by ensuring that full and fair market value is received in exchange for the sale and/or lease of public hospitals.

Growth Management

On Wednesday, the Senate took up SB 842 Relating to Growth Management by Senator Mike Bennett (R-Bradenton) by a vote of 38-2.

Slated as this year’s premier growth management legislation, this bill makes a number of non-substantive modifications and clarifications to ch. 2011-139, L.O.F, "The Community Planning Act" (the Act) that were compiled through various discussions and feedback received from stakeholders including the state land planning agency and local governments.

Modifications include fixing cross-references, updating outdated language, and removing provisions throughout the statutes that the Act made obsolete. Such references include the twice-a-year limitation on adopting plan amendments that no longer exists and references to the evaluation and appraisal report that are no longer required.

SB 842 also requires a regional planning council to determine before accepting a grant that the purpose of the grant is in furtherance of its functions, prohibiting a regional planning council from providing consulting services for a fee to any local government for a project for which the council will serve in a review capacity, prohibiting a regional planning council from providing consulting services to a private developer or landowner for a project for which the council may serve in a review capacity in the future.

Substituted by its House companion, HB 7081 by the House Community & Military Affairs Subcommittee, the measure was approved for final passage and will now proceed to the Governor for final approval.

AIF SUPPORTS efforts to clarify "The Community Planning Act" so as to guarantee that those developers can proceed with certainty. Under the leadership of Senator Bennett, the Florida Legislature is to be commended for their support of last year’s landmark growth management reforms.