



**From April 6, 2017**

## **INSURANCE**

### **HB 1107-Relating to Public Records/Workers' Compensation**

On Thursday, April 6th, HB 1107, by Representative Ben Albritton (R-Bartow) was heard by the House Commerce Committee and passed unanimously by a vote of 25 yeas to 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this bill.**

This bill would exempt private and personal identifying information of an injured worker or deceased employee from public record. Currently, this information is open to the public and often times injured workers are inundated with outreach from attorneys wanting to take on their cases immediately after filing their claim.

HB 1107 will now go to the House floor to be heard.

**AIF SUPPORTS protecting the private information of injured or deceased employees.**

### **HB 7085-Relating to Workers' Compensation**

On Thursday, April 6th, HB 7085, by Representative Danny Burgess (R-Zephyrhills) and the House Insurance & Banking Subcommittee, was heard by the House Commerce Committee, amended, and passed by a vote of 20 yeas to 9 nays. **AIF stood in support of the bill as amended.**

This legislation seeks to address the issues within Florida's Workers' Compensation law that have deemed the law unconstitutional, specifically the issue of rate increases, attorney fees, claimant benefits, etc.

During committee three amendments offered by Representative Burgess were adopted. **AIF stood in support of all three amendments.**

- The first amendment addresses the unconstitutionality of *Castellanos* case and the issue of attorney fees. It requires the claimants' attorneys to detail hours worked in the form of an attestation to a judge of compensation claims (JCC) at certain intervals before a hearing on a petition for benefits (PFB); allows deviations from the current statutory fee schedule, called a "departure fee," if the fees under the schedule are *less than 40%* or *greater than 125%* of the customary fee when the amount allowed under the fee schedule is converted to an hourly rate; in a "departure fee" scenario, a JCC must determine the number of hours worked by a claimant attorney, deduct hours related to benefits on which the claimant did not prevail, and reduce excessive hours. In determining a "departure fee," a JCC must consider certain factors, and compute a new hourly rate which may not exceed \$150/hour. Employers and carriers can contest departure fees within 20 days of an award and that will be reviewed by a JCC in another district. **AIF SUPPORTS this amendment because it substantively improves the language in the base bill and caps the biggest cost driver of workers' compensation litigation, attorney fees.**

- The second amendment addresses the unconstitutionality of the *Westphal* case, and makes revisions to the provision of temporary total disability benefits (TTD) and temporary partial disability benefits (TPD). It essentially allows an employee to extend the number of weeks they receive benefits if they are still improving and have not yet reached maximum medical improvement (MMI). **AIF SUPPORTS this amendment as we believe it is a necessary response to the *Westphal* case. The business community is supportive of ensuring appropriate benefits for injured workers, recognizing that the main cost driver in workers' compensation is attorneys' fees.**
- The third amendment addresses the unconstitutionality of the *Miles* case, and puts claimants on notice that they could be responsible for paying their own attorney's fees if their attorney does not prevail on their claim for benefits. It also requires a petition for benefits (PFB) to include specific information, so that employers and carriers can appropriately respond to a claimant's request, and requires a good faith attempt at resolving those issues before a PFB is filed. Judges of compensation claims (JCCs) can dismiss PFBs where a good faith effort at resolving a claim is not made. **AIF SUPPORTS this amendment as it ensures consumer protection so that claimants aren't duped into exorbitant contracts with plaintiffs' attorneys. This fixes *Miles*, which basically would allow claimants to be taken advantage of by unscrupulous plaintiffs' attorneys. Claimants should have full knowledge and disclosure of the impact of fee arrangements in the interest of consumer protection.**

Also during committee, **AIF stood in opposition** to two amendments that were reported unfavorable by the committee.

- The first, offered by Representative Sean Shaw (D-Tampa) provided that, in lieu of the National Council of Compensation Insurance (NCCI) filing combined rates with the Office of Insurance Regulation (OIR) for review and approval, that insurance companies would be able to file their rates individually. In addition, it said that NCCI would be authorized to collect "loss costs" and that companies could use these costs in deciding their individual rate filings. **AIF OPPOSED this amendment because changing the entity that files rates would have no effect on diminishing the need for rate increases. The only solution to the problem of rate increases is to address the case law that actually caused the increase. Currently, and under this amendment, the OIR has ultimate authority to review and approve rates, so the amendment would change nothing about the ultimate rate decision and impact to businesses.**
- The second amendment, offered by Representative Jared Moskowitz (D-Coral Springs) sought to loosen the process by which claimants access treating physicians. Essentially, it provides for unlimited changes in treating physicians." Currently, an injured employee's treating physician is selected by the employer/carrier. The employer/carrier must give the employee the opportunity for one change of physician during the course of treatment. **AIF OPPOSED this amendment because it would encourage "doctor shopping," and therefore, is likely to increase costs to the system and business.**

HB 7085 is not currently assigned to any other committees of reference.

**AIF ultimately SUPPORTED the bill as we believe this legislation is now postured to be a fix to Florida's Workers' Compensation system fair to every person and or entity involved.**

**Please see the below press releases regarding HB 7085 and the action taken today:**

## **AIF Calls on House Commerce Committee to Adopt Workers' Comp Amendments**

**Tallahassee, Fla.** – The Associated Industries of Florida (AIF) today released the following statement on behalf of its President & CEO Tom Feeney, who also serves as the chair of its “Florida Workers’ Compensation Strategic Task Force,” that calls on the Florida House Commerce Committee to adopt the amendments to House Bill 7085, by the House Insurance & Banking Subcommittee and Representative Danny Burgess, relating to Workers’ Compensation. HB 7085 will be heard today in the House Commerce Committee, its first and only committee of reference.

“AIF today calls on members of the Florida House Commerce Committee to adopt the amendments to HB 7085 that will go a long way in rectifying our state’s wounded workers’ compensation system. While there is still more work to be done to make Florida’s workers’ compensation system whole again, these good amendments support some of the fixes Florida’s business community proposed under our ‘Florida Workers’ Compensation Strategic Task Force.’

‘AIF commends the Representative Burgess and the committee for their hard work on this legislation. It is imperative we relieve burdensome pressures on Florida’s employers while ensuring injured workers get healthier in a timely manor. Florida deserves a stable, self-executing and affordable system to care for injured workers. With these amendments adopted today, HB 7085 could provide a solid framework for containing the crises created by hostile Florida Court decisions that would otherwise undercut Florida’s workers’ compensation system.”

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## **AIF Applauds House Commerce Committee for Passing Solid Workers' Comp Legislation**

**Tallahassee, Fla.** – The Associated Industries of Florida (AIF) today released the following statement on behalf of its President & CEO Tom Feeney, who also serves as the chair of its “Florida Workers’ Compensation Strategic Task Force,” that applauds the Florida House Commerce Committee for passing House Bill 7085, by the House Insurance & Banking Subcommittee and Representative Danny Burgess, relating to Workers’ Compensation. HB 7085 will now head to the House floor.

“AIF applauds the Florida House Commerce Committee for passing HB 7085 out of its committee today. This is solid legislation that will go a long way in rectifying our state’s workers’ compensation system.

“Florida deserves a stable, self-executing and affordable system to care for injured workers, and this bill includes some of the proposals Florida’s business community proposed under our ‘Florida Workers’ Compensation Strategic Task Force.’

“AIF thanks Representative Burgess for his work on this good bill and looks forward to seeing it advance to the full House.”

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## EDUCATION

### HB 859-Relating to Postsecondary Distance Education

On Thursday, April 6th, HB 859, by Representative Amber Mariano (R-Port Richey), was heard by the House Education Committee and passed unanimously by a vote of 18 yeas to 0 nays. **AIF stood in support of this bill.**

This legislation seeks to authorize Florida's participation in the State Authorization Reciprocity Agreement known as "SARA" created by the Southern Regional Education Board and the National Council on State Authorization Reciprocity Agreements. This would allow for Florida's postsecondary institutions to voluntarily participate in what is a multi-state reciprocity agreement allowing them to offer online education without excessive fees and regulatory compliance processes. This reciprocity offers student's greater access to more distance education, enhances oversight of distance education offerings to Florida students by another state, and expands experiential learning opportunities across state lines. Not only is this good for students but it also helps lessen the burden on Florida businesses and taxpayers to fund construction and facility costs.

HB 859 will move on to the House floor to be heard.

**AIF SUPPORTS our independent colleges and universities continued efforts to address the growing challenges that comes with increased enrollment.**

## HEALTH CARE

### HB 7-Certificates of Need

On Thursday, April 6th, HB 7, by Representative Alex Miller (R-Sarasota), was heard before the House Health and Human Services Committee and passed by a vote of 12 yeas to 5 nays.

In committee, a strike all amendment, offered by the bill sponsor was adopted. This amendment eliminates certificate of need (CON) requirements for nursing homes, hospices, and ICFDD's from the original proposed CON program repeal. **AIF stood in support of this amendment.**

Currently, the Florida CON program has three levels of review: full, expedited, and exempt. Expedited review is primarily targeted towards nursing home projects; specifically, when adding beds and making any construction changes or creating new nursing home facilities. The CON program, administered by the Agency for Health Care Administration (AHCA), requires certain health care facilities to obtain authorization from the state before offering certain new or expanded services.

HB 7 will move on to the House floor to be heard.

**AIF SUPPORTS removing burdensome regulations that hinders the ability to further improve businesses in the state of Florida.**

## **SB 182-Relating to Consumer Protection from Nonmedical Changes to Prescription Drug Formularies**

On Thursday, April 6th, SB 182, by Senator Debbie Mayfield (R-Melbourne), was heard by the Senate Committee on Appropriations and passed with a vote of 18 yeas to 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, spoke in opposition to this bill.**

This bill addresses the ability to move or shift prescription drugs within drug formularies by health plans. Currently, health plans have the authority to move prescription drugs to different tiers within the drug formulary, or add/remove certain drugs all together. Health plans use this system if, for instance, a drug has been found to be unsafe for patients or a more cost-efficient alternative has become available. Removing this ability from health plans would not only cause the cost of healthcare to rise but could put patients at risk of taking potentially harmful medications.

SB 182 will now go to the Senate Committee on Rules to be heard.

**AIF OPPOSES taking away the leverage health plans have to add, remove, or shift drugs within the formulary system as it will increase the cost of health care and pharmaceuticals for Florida's employer community.**

## **ENVIRONMENT**

### **SB 532-Relating to Public Notification of Pollution**

On Thursday, April 6th, SB 532, by Senator Bill Galvano (R-Bradenton), was heard in the Senate Appropriations Committee and passed by a vote of 18 yeas to 0 nays. **AIF stood in support of this bill.**

This bill will require companies to notify the Florida Department of Environmental Protection (FDEP) about the release of any dangerous substance within 24 hours of discovery, and DEP must then publish a public notice within 24 hours.

SB 532 will now go to the Senate floor to be heard.

**AIF SUPPORTS the FDEP's role as the recipient of notifications regarding incidents from the regulated business community do to their experience, expertise, and ability to determine potential impacts from any reported incidents.**

## **TAXATION**

### **SB 76-Relating to Limitations on Property Tax Assessments**

On Thursday, April 6th, SB 76, by Senator Tom Lee (R-Brandon) was heard in the Senate Committee on Appropriations and unanimously passed by a vote of 15 yeas to 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this bill.**

In 2008, Florida voters approved Amendment 1 which, among other things, created a 10% cap on the annual increase of property taxes for all non-homestead properties. However, this amendment included a sunset provision that goes into effect on Jan. 1, 2019. HB 21 proposes a constitutional amendment be added to the ballot during the 2018 General Election to let the voters decide in making this cap 10% tax cap permanent.

SB 76 will now go to the Senate Committee on Rules to be heard.

**AIF SUPPORTS a permanent 10% property tax cap on second homes and commercial property.**

## TRANSPORTATION

### **SB 340-Relating to Transportation Network Companies (TNCs)**

On Thursday, April 6th, SB 340, by Senator Jeff Brandes (R-St. Petersburg) was heard by the Senate Committee on Rules and passed by a vote of 10 yeas to 1 nay. **AIF stood in support of this bill.**

This bill aims to establish a regulatory framework for Transportation Network Companies (TNCs) and how they operate throughout communities in Florida. SB 340 defines what constitutes as a “TNC vehicle”, sets in place insurance requirements and preempts authority to the state, which will allow for a streamlined set of rules to be followed throughout the state.

SB 340 will now go to the Senate floor to be heard.

**AIF SUPPORTS statewide digital transportation service policies to create price competition, promote consumer choice, enhance customer experience, create jobs and remove anti-competitive local regulations.**

## LEGAL & JUDICIAL

### **SB 1398-Relating to Accessibility of Places of Public Accommodation**

On Thursday, April 6th, SB 1398, by Senator Linda Stewart (R-Orlando), was heard before the Senate Committee on Regulated Industries and passed unanimously by a vote of 10 yeas to 0 nays. **AIF stood in support of this bill.**

Congress enacted the Americans with Disabilities Act (ADA) in 1990 prohibiting discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. One of the goals of the ADA is to guarantee that individuals with disabilities are offered full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations offered by a place of public accommodation.

However, individuals with disabilities may sue places of public accommodation including private businesses for alleged violations of the ADA, a problem that is currently rampant throughout the state.

The bill would:

- Create a license type for ADA experts;
- Require the Department of Business and Professional Regulation (DBPR) to establish licensing requirements and regulation for ADA experts;
- Allow ADA experts to determine if the businesses are compliant with the ADA;
- Allow businesses to hire ADA experts and file ADA expert reports with DBPR;
- Allow businesses to file remediation plans with DBPR if they are not in compliance with the ADA;
- Require DBPR to establish a public website with a registry of remediation plans and certifications of conformity; and
- Require courts to consider remediation plans to determine if a plaintiff filed a claim in good faith and whether the plaintiff is entitled to attorney's fees in lawsuits involving alleged violations of the ADA.

SB 1398 will go on to the Senate Appropriations Subcommittee on General Government for its next hearing.

**AIF SUPPORTS legislation that makes filing frivolous lawsuits against Florida's businesses more difficult to accomplish.**

### **HB 1027- Relating to Unmanned Aircraft**

On Thursday, April 6th, HB 1027, by Representative Clay Yarborough (R-Jacksonville,) was heard by the House Government Accountability Committee and unanimously passed by a vote of 23 yeas to 0 nays. **AIF stood in support of this bill.**

This bill will ensure a consistent framework for the use of drones. As the use of drones becomes increasingly more common in many different sectors of the business community throughout the state, implementing statewide regulations will establish safeguards while operating drones.

HB 1027 will go to the House floor to be heard.

**AIF SUPPORTS legislation that will streamline business regulation throughout the state.**