



# DAILY BRIEF

For the 2020 Legislative Session

**From February 4, 2020**

## **ECONOMIC DEVELOPMENT**

### **HB 1139 – Relating to Regional Rural Development Grants**

On Tuesday, February 4, HB 1139 by Representative Chuck Clemons (R-Jonesville) was heard by the House Workforce Development & Tourism Subcommittee and was reported favorable with 12 yeas and 1 nay. **AIF stood in support of this legislation.**

Three regional economic development organizations operate in Florida. Each coincides respectively with one of the state's three Rural Areas of Opportunity (RAO). A RAO is a rural community, or a region comprised of rural communities, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.

The bill amends the Regional Rural Development Grants Program to clarify how regional economic development organizations may build their professional capacity and expand grant use for technical assistance. The bill also increases the total annual grant award available to the three regional economic development organizations recognized by the DEO as serving an entire RAO, decreases the annual grant award available to other organizations located in or contracted to serve an RAO, and eliminates grant eligibility for organizations representing rural counties or communities that are not located in a RAO. Additionally, the bill reduces the percentage of grant funds that must be matched with non-state funds from 100 percent to 25 percent of the state's contribution and increases the maximum amount of funds that DEO may expend for the program, from \$750,000 to \$1 million annually.

Finally, the amends the Rural Infrastructure Fund by increasing the percentage of total infrastructure costs that may be funded by a grant award, expanding eligible projects and uses to include broadband internet service.

HB 1139 will now move to the House Transportation & Tourism Appropriations Subcommittee.

**AIF supports efforts to increase economic development in Florida's rural areas by increasing job growth.**

## ENVIRONMENT

### HB 1199 – Relating to Environmental Protection Act

On Tuesday, February 4, HB 1199 by Representative Blaise Ingoglia (R-Spring Hill) was heard by the House Agriculture & Natural Resources Subcommittee and was reported favorable with 12 yeas and 0 nays. **AIF stood in support of this legislation.**

Florida authorizes a citizen to assert standing to stop activity that will affect his or her use or enjoyment of air, water, or natural resources. However, court rulings and legislation in the U.S. and worldwide have suggested specific legal rights of nature may exist authorizing a person to assert standing on behalf of natural resources.

While U.S. Supreme Court precedent clearly limits standing for environmental claims to only an action causing injury to a human, dissenting opinions suggesting otherwise have recently caught the attention of environmental activists attempting to assert standing on behalf of the environment, often resulting in lengthy yet unsuccessful litigation.

The bill amends the Florida Environmental Protection Act to prohibit a local government regulation, ordinance, code, rule, comprehensive plan, charter, or any other provision of law:

- From recognizing or granting any legal right to a plant, animal, body of water, or any other part of the natural environment that is not a person or political subdivision; or
- Granting a person or political subdivision any specific rights relating to the natural environment.

The bill provides that the prohibition on granting rights to nonpersons may not limit the:

- Ability of an aggrieved or adversely affected party to appeal and challenge the consistency of a development order with a comprehensive plan, or to file an action for injunctive relief to enforce the terms of a development agreement or to challenge compliance of the agreement with the Florida Local Government Development Agreement Act; or
- Standing to maintain an action for injunctive relief as otherwise provided by the EPA for:
  - Department of Legal Affairs;
  - Any political subdivision of the state; or
  - A resident of the state.

The bill may prevent costly litigation related to granting rights to natural resources, when current legal precedent suggests such rights may not be granted at the state or local level.

HB 1199 will now move to the House Judiciary Committee.

**AIF supports legislation that protects Florida businesses from lawsuits by defining that people cannot sue on behalf of inanimate objects, i.e. rivers, lakes, streams etc.**

### HB 715 – Relating to Recycled Water

On Tuesday, February 4, HB 715 by Representative Randy Maggard (R-Zephyrhills) was heard by the House Agriculture & Natural Resources Subcommittee and was reported favorable with 9 yeas and 0 nays. **AIF stood in support of this legislation.**

The bill, which is based off the recommendations of the Potable Reuse Commission, recognizes reclaimed water as a potential source of drinking water, recognizes potable reuse water as an alternative active water supply, establishes specific water quality criteria for potable reuse, and prohibits certain utilities from discharging reuse, effluent, or reclaimed water via surface water discharges.

HB 7156 will now move to the House Agriculture & Natural Resources Appropriations Subcommittee.

**AIF supports legislation which increases Florida’s water supply by encouraging greater utilization of reclaimed water, direct and indirect potable technology, and other alternative water supplies that are both technologically and economically feasible. States with an adequate water supply will have a head start on future economic development and job creation.**

## **INSURANCE**

### **SB 914 – Relating Contingency Risk Multipliers**

On Tuesday, February 4, SB 914 by Senator Jeff Brandes (R-St. Petersburg) was heard by the Senate Judiciary Committee and was reported favorable with 4 yeas and 2 nays. **AIF stood in support of this legislation.**

The bill prohibits the use of contingency risk multipliers in property insurance policy disputes and provides that the maximum attorney fee a court may award for those claims is the lodestar amount. The lodestar amount, in this context, is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate for the attorney’s services on behalf of the insured or beneficiary. Further, the bill prohibits courts from considering contingency risk either as an element in calculating the lodestar amount or as a multiplier to increase the lodestar amount. Since 1992, the federal courts have maintained a consistent standard for contingency risk multipliers, and the US Supreme Court has strongly asserted that contingency risk multipliers should only apply in “rare and exceptional cases.” During the meeting, the sponsor offered an amendment that, rather than prohibiting the use of contingency risk multipliers, codified the federal standard that the multipliers may only be used in rare and exceptional cases.

SB 914 will now move to the Senate Rules Committee.

**AIF supports legislative efforts that prevent unscrupulous actors from taking advantage of property insurance disputes which keeps insurance rates low and allows growth in Florida businesses.**

## **LEGAL & JUDICIAL**

### **SB 1582 – Relating to Asbestos Trust Claims**

On Tuesday, February 4, SB 1582 by Senator David Simmons (R-Longwood) was heard by the Senate Judiciary Committee and was reported favorable with 6 yeas and 0 nays. **AIF stood in support of this legislation.**

Asbestos is the name given to six naturally occurring fibrous minerals resistant to chemical, thermal, and electricity damage historically used in construction, manufacturing, and fireproofing. When handled, asbestos separates into microscopic particles, exposure to which causes cancer and other diseases, including

lung cancer, mesothelioma, and asbestosis, which can take 20 to 40 years to develop following initial exposure.

Workers exposed to asbestos began falling ill and in turn sued the corporations responsible for their exposure. As the suits against these corporations piled up, many filed for reorganization under Chapter 11 of the United States Bankruptcy Code, which in turn stayed all current suits against the respective corporation.

The bankruptcy court faced a unique scenario, where corporations were able to reorganize while shielded from future suits. These suits would instead be filed against a trust fund formed by the company seeking bankruptcy reorganization.

Presently, where liability for an asbestos injury comes from both a trust and a solvent corporation, an injured person may sue the solvent corporation to recover its share of the harm, and a court may offset the judgment by the amount of trust payments the plaintiff received for the same injury. However, where a plaintiff files a trust claim after obtaining a judgment in a civil action alleging the same injury, a court loses its ability to offset the judgment against the solvent defendant. Plaintiffs use this loophole to increase their compensation for a single injury, essentially double-dipping.

The bill requires a claimant filing an asbestos injury lawsuit to notify all parties to the action of any claims made against and funds received from an asbestos trust. The bill states that a defendant in an asbestos claim may obtain through discovery certain materials the claimant has filed with an asbestos trust. The bill bars asbestos claimants from claiming that the materials filed with the trust are privileged.

Additionally, the bill allows a trial court to adjust an asbestos claim judgment to reflect payment received by the plaintiff from an asbestos trust, if the plaintiff filed the trust claim after he or she obtained a judgment but before that judgment was satisfied.

SB 1582 will now move to the Senate Commerce and Tourism Committee.

**AIF supports legislation that curbs “double dipping” of the asbestos trust fund which ensures that all Floridians affected may be adequately compensated.**

## **HB 377 – Relating to Motor Vehicle Rentals**

On Tuesday, February 4, HB 377 by Representative Chris Latvala (R-Clearwater) was heard by the House Transportation & Infrastructure Subcommittee and was reported favorable with 11 yeas and 2 nays. **AIF stood in support of this legislation.**

Currently, rental car companies levee a daily surcharge of \$2 per day that is paid by individuals renting cars. Peer-to-peer vehicle sharing programs are typically app-based platforms where owners can list and lease their personal vehicles for a pre-determined time and rate. Presently, these car sharing services are exempt from the rental car surcharge. The proceeds from the rental car surcharge paid by consumers who rent vehicles goes to build and maintain the state’s infrastructure, which is very important to Florida businesses statewide.

The bill amends current Florida statute which establishes a surcharge on the lease or rental of a motor vehicle, to extend the surcharge to peer-to-peer vehicle sharing programs. The fee amounts to \$2 per day on rentals over 24 hours and drops to \$1 for rentals of less than 24 hours. The bill also establishes operational

requirements for peer-to-peer vehicle sharing programs, such as insurance requirements to prevent a lapse in insurance coverage should an accident occur.

HB 377 will now move to the House Ways & Means Committee.

**AIF supports the proposed measures in this bill to hold all rental car services accountable, regardless of how the vehicle is accessed.**

### **HB 1383 – Relating to Motor Vehicle Manufacturers and Dealers**

On Tuesday, February 4, HB 1383 by Representative Chris Latvala (R-Clearwater) was heard by the House Transportation & Infrastructure Subcommittee and was reported favorable with 9 yeas and 5 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in opposition to this legislation.**

The bill creates a new definition for the term “line-make vehicle” and provides that a line-make model that has been the subject of a franchise agreement with a dealer may not be sold by a manufacturer other than through its franchised dealers and may not be rebadged or marketed as a new line-make unless the manufacturer offers a franchise of that new line-make to every dealer that was franchised to sell that model before rebadging. The bill also prohibits manufacturers from competing with franchised dealers in the sale or service of vehicles, the sale of parts and products, collision repair, or any other activity related to the line-make sold by a dealer.

Additionally, the bill will make it unlawful for manufacturers to sell parts to a retail consumer, a wholesaler, or a broker of title. Additionally, the language appears to prohibit the operation of vehicle subscription programs (subscription services allow consumers to pay a monthly subscription fee to have access to different vehicles, which they can change at their convenience).

HB 1383 will now move to the House Commerce Committee.

**AIF opposes legislative efforts that choose winners and losers by interfering with contracts between private companies.**

### **SB 1766 – Relating to Growth Management**

On Tuesday, February 4, SB 1766 by Senator Tom Lee (R-Brandon) was heard by the Senate Judiciary Committee and was reported favorable with 6 yeas and 0 nays. **AIF stood in support of this legislation.**

The Bert J. Harris, Jr., Private Property Rights Protection Act provides a cause of action for relief or compensation when a law, rule, regulation, or ordinance inordinately burdens real property without amounting to a taking. An action of a governmental entity is an inordinate burden if it directly restricts or limits the use of real property in a way that permanently prevents the owner from attaining the reasonable, investment-backed expectation for the existing use of the property or to a specific use of the property.

The bill makes these changes to the Bert Harris Act:

- Entitles property owners to compensation or other relief when an owner of a similarly situated residential property has become entitled to relief due to the same regulation or ordinance.
- Shortens the pre-suit process that is a prerequisite to a lawsuit under the Bert Harris Act from 150 to 90 days.
- Establishes a presumption that a settlement offer made by a governmental entity during the pre-suit process protects the public interest.
- Gives a property owner the option of having compensation for an inordinate burden determined by a judge, instead of a jury as under current law.
- Allows a property owner to forgo an application for a permit or other relief as a prerequisite to making a Bert Harris claim if a governmental entity acknowledges that a law or regulation limits the uses of the property.

SB 1766 will now move to the Senate Community Affairs Committee.

**AIF supports private property rights which create a prosperous business climate in Florida.**

### **Proposed Committee Bill CJS 20-02 – Relating to Legal Advertising**

On Tuesday, February 4, **PCB CJS 20-02**, sponsored and heard by the House Civil Justice Committee, was reported favorable with 10 yeas and 4 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

In 2017, the U.S. Chamber Institute for Legal Reform (ILR) surveyed 1,335 adults, 500 of whom were currently taking or had taken one of 12 prescription drugs frequently targeted by personal injury lawyers, and asked how they would respond if they saw an advertisement about a lawsuit for injury caused by a medication they were taking. Nearly half of the survey respondents said they would definitely or probably stop taking the drug immediately after seeing the advertisement. When shown an actual television legal advertisement about a drug they had taken, more than half said they would reduce the dosage to below the prescribed amount. Since survey respondents were willing to discontinue or reduce their medication without consulting a doctor, the survey results show that certain types of legal advertising could have severe consequences for patients.

In 2019, the Federal Trade Commission (FTC) noted that the Food and Drug Administration's (FDA) Adverse Event Reporting System contains reports of consumers who saw advertisements about the prescription drugs they were taking, discontinued those medications, and suffered adverse consequences. The FTC warned that advertisements that cause, or are likely to cause, viewers to discontinue their medications may constitute an unfair act or practice and recommended that advertisements include clear and prominent audio and visual disclosures stating that consumers should not stop taking their medications without first consulting their doctors.

The PCB prohibits legal advertisements from containing certain terminology and prohibits certain use, sale, or transfer of protected health information. Specifically, the proposed bill:

- Prohibits a person who submits a legal advertisement for publication, broadcast, or dissemination, or who pays for or otherwise sponsors a legal advertisement from:
- Failing to clearly and conspicuously disclose the sponsor of the advertisement;
- Displaying federal or state government agency logos in a manner implying affiliation with a that agency; o Including terminology implying that the product has been recalled when it has not been;

- Requires a legal advertisement to clearly disclose the warning, "Do not stop taking a prescribed medication without first consulting your doctor," if the advertisement solicits clients who may allege injury from a prescription drug; and
- Prohibits a person from using, obtaining, selling, transferring, or disclosing to another person without written authorization protected health information to solicit legal services.

The proposed bill also creates a cause of action for a person who suffers a physical injury as a result of a legal advertisement's violation of these provisions and authorizes compensatory damages, attorney fees, and court costs.

The PCB will now be given a number and committee references.

**AIF supports legislative efforts that protect Florida's healthcare providers who are far more knowledgeable regarding medical care than scare-tactic litigators seeking compensation.**

### **HB 903 – Relating to Fines and Fees**

On Tuesday, February 4, HB 903 by Representative Byron Donalds (R-Naples) was heard by the House Civil Justice Committee and was reported favorable with 13 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Each of the 67 Florida counties has a clerk of court, an elected constitutional officer who oversees judiciary functions as the clerk of the county and circuit courts. The clerks are authorized to charge fees for performing various functions. Moreover, clerks collect court costs and fines related to a court disposition.

An indigent person may ask the clerk of court to allow him or her to enter into a payment plan for outstanding financial obligations owed to the clerk. If a fee, service charge, fine, or court cost remains unpaid for 90 days, and the clerk has attempted to collect the unpaid amount through an internal process, the clerk may forward the unpaid accounts to an attorney or collection agent.

Under current law, a person's driver license can be suspended for various reasons, including:

- Failure to pay a court fee or fine.
- Failure to comply with or appear at a traffic summons.
- Having unpaid citations in another state.

The bill requires clerks of court to establish uniform payment plans for court-related fees, service charges, costs, and fines for persons who apply for a payment plan. If the person is unable to comply with the payment plan terms, a court may modify the plan or convert the outstanding amount to community service. The bill provides a 30-day grace period for the first payment for persons not in custody, and a 90-day grace period for the first payment for persons in custody, upon their release. The court may convert the outstanding amounts owed to community service if the person is unable to comply with the payment plan.

Additionally, certain financially-constrained persons may petition a court to determine that a payment plan's obligations are satisfied if he or she has made a specified number of consecutive payments, depending on the amount of the obligation.

The bill also removes the clerk's authority to suspend a driver license based on a failure to pay civil or criminal fines or fees. The bill allows a person whose driver license is suspended for nonpayment of such fines and fees to reinstate his or her license upon payment of a reinstatement fee.

HB 903 will now move to the House Appropriations Committee.

**AIF supports legislation that clarifies regulations and keeps Florida businesses operating on our roadways.**

## TAXATION

### **SB 1240 – Relating to Corporate Income Tax**

On Tuesday, February 4, SB 1240 by Senator Joe Gruters (R-Sarasota) was heard by the Senate Commerce and Tourism Committee and was reported favorable with 5 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, spoke in support of this legislation.**

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. A corporation calculates its taxable income for Florida tax purposes by starting with its taxable income determined for federal tax purposes. This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

The bill grants eligible car rental, leasing, or financing companies a \$2 million tax credit against their Florida corporate taxes paid for the 2018 taxable year. To be eligible for the tax credit, these companies must have deferred gains on the sale of personal property for corporate federal income tax purposes under s. 1031 of the Internal Revenue Code during the August 1, 2016-August 1, 2017 taxable year, and incurred a specific rise in tax liability in the August 1, 2017-August 1, 2018 taxable year.

SB 1240 will now move to the Senate Finance and Tax Committee.

**AIF supports a reduced corporate income tax on businesses to encourage corporate growth and the expansion of employment opportunities in Florida.**

### **SB 1642 – Relating to Tax Exemptions**

On Tuesday, February 4, SB 1642 by Senator Joe Gruters (R-Sarasota) was heard by the Senate Commerce and Tourism Committee and was reported favorable with 4 yeas and 1 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions, transient rentals, and a limited number of services.

The bill exempts from sales tax the purchase of aircraft equipment used for advanced training purposes as part of a contract with the U.S. Department of Defense (DOD) or a military branch of a recognized foreign government, as well as certain parts and accessories for industrial machinery and equipment. Specifically, industrial machinery and equipment for the manufacture, processing, compounding, or production of items is tax exempt.

SB 1642 will now move to the Senate Finance and Tax Committee.

**AIF supports a tax exemption on industrial machinery that gives manufacturers and industrial businesses in Florida the tools needed to create jobs and continue to drive the economy.**

## INFORMATION TECHNOLOGY

### HB 1391 – Relating to Technological Development

On Tuesday, February 4, HB 1391 by Representative James Grant (R-Tampa) was heard by the House Insurance & Banking Subcommittee and was reported favorable with 14 yeas and 0 nays. **AIF stood in support of this legislation.**

The Department of Management Services (DMS) oversees information technology governance and security for the executive branch of state government. The Division of State Technology (DST), a subdivision of DMS subject to its control and supervision, implements DMS's duties and policies in this area.

The bill:

- Abolishes DST and establishes the Florida Digital Service (FDS) in its place.
- Places new duties and responsibilities under FDS and expands the duties and responsibilities currently assigned to DMS and DST.
- Tasks FDS with procuring a credential service provider for the purpose of creating digital driver licenses or identification cards.
- Creates the Enterprise Architecture Advisory Council as a 13-member advisory council within DMS.
- Creates the Division of Telecommunications within DMS, removes DST as the head of the E911 system in Florida, and places the Division of Telecommunications as its new head.

The Office of Financial Regulation (OFR) regulates money services businesses, which include money transmitters and payment instrument sellers. The bill creates the Financial Technology Sandbox within the OFR to allow a person to make an innovative financial product or service available to consumers as a money transmitter or payment instrument seller during a sandbox period that is initially not longer than 24 months but which can be extended one time for up to 12 months. The sandbox provides regulatory flexibility by permitting the OFR to waive specified statutes and corresponding rule requirements.

HB 1391 will now move to the House Government Operations & Technology Appropriations Subcommittee.

**AIF supports stronger investments in IT and the modernization of Florida's outdated systems and processes that will greatly benefit the government and business relationship in the state.**