



WEEKLY UPDATE

For the 2020 Legislative Session

From January 24, 2020

ENERGY

HB 1095 – Relating to Underground Facility Damage Prevention and Safety

On Tuesday, January 21, **HB 1095** by Representative Heather Fitzenhagen (R-Fort Myers) was heard by the House Energy & Utilities Subcommittee and was reported favorable with 14 yeas and 0 nays. **AIF stood in support of this legislation.**

Chapter 556, F.S., is the “Underground Facility Damage Prevention and Safety Act” (Act). The stated purpose of the Act is to identify and locate underground facilities prior to an excavation or demolition to prevent injury to persons or property or interruption of services resulting from damage to those facilities. To accomplish this, the Act creates a not-for-profit corporation (Sunshine 811) to administer a free-access notification system.

The bill amends the Florida statute to:

- Expand the list of entities that may issue citations for violations to include the State Fire Marshal and local fire chiefs.
- Increase the maximum civil penalty (up to \$2,500 plus 5 percent, in addition to any other court costs) for certain violations that involve an underground pipe or facility transporting hazardous materials;
- Require each clerk of court to submit an annual report to the State Fire Marshal listing each violation notice;
- Require Sunshine 811 to transmit reports of incidents that involve high-priority subsurface installations (HPSI) for investigation; and
- Create an “underground facility damage prevention review panel” under the State Fire Marshal for the purpose of reviewing complaints of alleged violations.

HB 1095 will now move to the House Government Operations & Technology Appropriations Subcommittee.

AIF supports legislation that enhances the 811 program and penalties to curb detrimental practices which lead to damaged infrastructure that causes unnecessary service interruptions, safety issues and increasing repair costs.

ENVIRONMENT

SB 712 – Relating to Water Quality Improvements

On Wednesday, January 22, **SB 712** by Senator Debbie Mayfield (R-Melbourne) was heard by the Senate Appropriations Subcommittee on Agriculture, Environment and General Government and was reported favorable with 9 yeas and 0 nays. **AIF stood in support of this legislation.**

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life. The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems. Phosphorus and nitrogen are derived from natural and human-made sources. Natural inputs include the atmosphere, soils, and the decay of plants and animals. Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.

The bill includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly known as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics.

In addition to DEP's role in monitoring and inspecting OSTDSs and other runoff areas, the bill authorizes the Florida Department of Agriculture and Consumer Services (FDACS) to perform onsite inspections of agricultural producers enrolled in best management practices (BMP) to verify that each practice is being properly implemented. The verification review will include a review of the BMP documentation including, but not limited to, nitrogen and phosphorus fertilizer application records.

The bill is a huge step forward in addressing Florida's current water quality crisis and the data collected will prove invaluable in preventing further degradation of our waterways.

SB 712 will now move to the Senate Appropriations Committee.

AIF supports legislation that addresses the existing water quality issues as Florida's businesses and citizens alike rely on access to clean, uncontaminated water.

HB 73 – Relating to Environmental Regulation

On Wednesday, January 22, **HB 73** by Representative Toby Overdorf (R-Stuart) was read for a second and third time on the House floor and passed with 119 yeas and 0 nays.

Rep. Overdorf on HB 73

<https://youtu.be/MjR4CeQ-uRE>

Current state law requires each county to implement a recyclable materials recycling program within its boundaries and encourages counties to work with municipalities for this purpose. Recyclable materials can become contaminated when residents place materials that are not recyclable into curbside recycling bins. While facilities are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process and result in increased costs due to equipment downtime, repair, or replacement needs. In addition to the increased recycling processing costs, contamination also results in poorer quality recyclables, increased rejection, and landfilling of unusable materials. Counties and municipalities may contract with private companies to operate their recycling programs, but current law does not require the contracts to address the contamination of recyclable materials.

The bill requires counties and municipalities to address nonhazardous contamination of recyclable materials in contracts with residential recycling collectors and recovered materials processing facilities. Contracts executed or renewed after October 1, 2020, must:

- Define the term “contaminated recyclable material” in a manner that is appropriate for the local community;
- Include strategies and obligations to reduce the amount of contaminated recyclable materials being collected or processed;
- Create procedures for identifying, documenting, managing, and rejecting contaminated recyclable materials;
- Authorize remedies in handling contaminated containers; and
- Provide education and enforcement measures for collection contracts.

Additionally, state law allows water management districts and the Department of Environmental Protection (DEP) to require an environmental resource permit (ERP) and impose reasonable conditions to ensure certain construction activities comply with the law and will not harm water resources. Some projects can be exempted from ERP permitting if they meet specific statutory restrictions, and local governments may require an applicant get verification from DEP that an activity qualifies for an ERP exception. For example, an ERP exception currently exists for the replacement or repair of a dock or pier if the replacement or repaired dock or pier is in the same location and under specific conditions. The exception allows minor deviations to upgrade the dock or pier to current structural and design standards.

The bill prohibits local governments from requiring further verification from DEP that a construction activity meets an ERP exception. In addition, the bill revises the ERP exception for docks and piers to allow for the repair or replacement if it is within five feet of the same location and no larger than the existing dock or pier and no additional aquatic resources are adversely and permanently impacted.

HB 73 will now go to the Senate for consideration.

AIF supports efforts to streamline recycling systems and scale back onerous permits thus creating a more efficient and productive business climate in Florida.

ECONOMIC DEVELOPMENT

CS/SB 922 – Relating to Economic Development

On Tuesday, January 21, Committee Substitute for **SB 922** by Senator Joe Gruters (R-Sarasota) was heard by the Senate Commerce & Tourism Committee and was reported favorable with 3 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

The bill makes changes to the Qualified Target Industry Tax Refund Program. Specifically, the bill provides that certain businesses that relocate to, or expand into, a county affected by Hurricane Michael are eligible to receive an increased tax refund and authorizes certain businesses located in a county affected by Hurricane Michael to apply for an economic recovery extension. The bill also removes the scheduled repeal date for the tax refund program.

SB 922 will now move to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

AIF supports legislation, funding and other assistance from the federal and state governments to help Florida's panhandle recover from the impacts of Hurricane Michael.

HB 1193 – Relating to Deregulation of Professions and Occupations

On Tuesday, January 21, **HB 1193** by Representative Blaise Ingoglia (R-Spring Hill) was heard by the House Business & Professions Subcommittee and was reported favorable with 12 yeas and 3 nays. **AIF stood in support of this legislation.**

An occupational or professional license is a form of regulation that requires individuals who want to perform certain types of work, such as contractors and cosmetologists, to obtain permission from the government to perform the work. In the 1950s, less than five percent of U.S. workers were required to have an occupational license to do their jobs. Since then, the number of workers required to have a license has risen to more than one-quarter of U.S. workers, and an estimated 28.7 percent of the Florida workforce requires a license from the state.

In 2015, The White House published a report on the current state of occupational licensing in the nation. The report found that when designed and implemented carefully, requiring occupational licenses offers important health and safety protections to consumers, as well as benefits to workers. However, the report also found that too often licensing requirements are inconsistent, inefficient, arbitrary, and there is evidence that the current licensing regimes in the U.S. raise the price of goods and services, restrict employment opportunities, and make it more difficult for workers to take their skills across state lines.

Specifically, the bill, cited as the "Occupational Freedom and Opportunity Act," does the following:

- Deregulates:
 - Interior designers and interior design businesses, hair braiders, hair wrappers, and body wrappers, nail polishers and makeup applicators, and boxing announcers and timekeepers.
- Partially deregulates:
 - Auctioneers, talent agents, and labor organizations.
- Eliminates the additional business license for:
 - Asbestos abatement consultants and contractors, architects, landscape architects, and geologists.
- Reduces the hours of training required to obtain a license for:
 - Barbers and restricted barbers, and nail, facial and full specialists.
- Adds new ways for out of state professionals to obtain a license in the state for:
 - Veterinarians, construction and electrical contractors, landscape architects, geologists, engineers, certified public accountants, home inspectors, building code professionals, and cosmetologists barbers.
- Reduces the number of members on the Florida Building Commission.
- Authorizes unlicensed individual to provide compensated dietary and nutritional information if such individuals do not represent that they are licensed dietitians or nutritionists.
- Prohibits DBPR from disciplining or revoking a licensee based solely on defaulting on a student loan.

HB 1193 will now move to the House Government Operations & Technology Appropriations Subcommittee.

AIF supports legislative action to lessen burdensome and unnecessary regulations on Florida businesses.

INSURANCE

SB 914 – Relating to Property Insurance

On Tuesday, January 21, **SB 914** by Senator Jeff Brandes (R-St. Petersburg) was heard by the Senate Banking & Insurance Committee and was reported favorable with 5 yeas and 3 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, 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 Judiciary 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

Proposed Committee Bill CJS 20-01 – Relating to Litigation Financing Consumer Protection

On Wednesday, January 22, **PCB CJS 20-01**, sponsored and heard by the House Civil Justice Subcommittee, was reported favorable with 15 yeas and 0 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Litigation financing is a non-recourse transaction in which a third party (“litigation financier”) provides funds to a person bringing a civil action or claim in exchange for an assignment of the person’s contingent right to receive an amount of the civil action or claim’s potential proceeds.

The PCB establishes various requirements, such as registering with the Department of State and posting a bond, on litigation financiers. The bill also establishes requirements regarding the contracts, disclosure to consumers, and prohibited conduct. Specifically, the bill caps the fees to \$500 for any civil action or claim, regardless of the number of contracts of a litigation financier. Lastly, it provides that violation of the Act is a violation of the Florida Deceptive and Unfair Trade Practices Act.

The PCB is now **HB 7041** and will be given committee references.

AIF supports efforts that create transparency and accountability to prevent malevolent litigation financiers from driving up litigation costs, and therefore, driving up the cost to do business in Florida.

TAXATION

SB 1112 – Relating to Bottled Water Excise Tax

On Tuesday, January 21, **SB 1112** by Senator Annette Taddeo (D-Miami) was heard by the Senate Commerce & Tourism Committee and temporarily postponed. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in opposition to this legislation.**

The bill creates an excise tax of 12.5 cents per gallon on bottled water operators engaged in the business of bottling or packing for sale water extracted from waters of the state.

As SB 1112 was temporarily postponed we do not expect this bill to be calendared for another hearing.

AIF continues to oppose efforts to enact taxes that place an unnecessary burden on Florida businesses.

SB 1096 – Relating to Bottled Water

On Tuesday, January 21, **SB 1096** by Senator Janet Cruz (D-Tampa) was heard by the Senate Environment and Natural Resources Committee and temporarily postponed. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in opposition to this legislation.**

The bill requires the Department of Environmental Protection (DEP) to monitor the consumptive use permits for all bottled water companies to ensure compliance with the limits of allowable water extraction. In order to ensure compliance, water must be measured in gallons at the bottling facility. The bill requires DEP to adopt rules to implement and enforce the bill. The bill requires that a daily fine not to exceed \$500 be imposed for each day a company withholds payment of the fees imposed under the section created by the bill. The bill does not apply to bottled water companies extracting less than 55 million gallons per calendar year. The bill adds a fee of five cents per gallon on water extracted to produce bottled water.

As SB 1096 was temporarily postponed we do not expect this bill to be calendared for another hearing.

AIF continues to oppose efforts to enact taxes that place an unnecessary burden on Florida businesses.

SB 1098 – Relating to Bottled Water

On Tuesday, January 21, **SB 1098** by Senator Janet Cruz (D-Tampa) was heard by the Senate Environment and Natural Resources Committee and temporarily postponed. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in opposition to this legislation.**

The bill requires the Department of Environmental Protection (DEP) to assess bottled water companies a fee of five cents per gallon on water extracted for the production of bottled water, including natural water and water from an approved source. DEP must deposit the fees into the Water Protection and Sustainability Program Trust Fund. The bill does not apply to bottled water companies extracting less than 55 million gallons per calendar year. SB 1096 creates the section of law containing the fee, and establishes requirements relating to the fee. SB 1098 only takes effect if SB 1096 or similar legislation is adopted in the same legislative session and goes into effect.

As SB 1098 was temporarily postponed we do not expect this bill to be calendared for another hearing.

AIF continues to oppose efforts to enact taxes that place an unnecessary burden on Florida businesses.