



# WEEKLY UPDATE

For the 2020 Legislative Session

**From March 6, 2020**

## ENVIRONMENT

### **HB 715 – Relating to Reclaimed Water**

On Monday, March 2, [HB 715](#) by Representative Randy Maggard (R-Zephyrhills) was heard by the House State Affairs Committee and was reported favorable with 22 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, 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 715 will now move to the House floor.

**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.**

### **HB 1001 – Relating to Contamination**

On Monday, March 2, [HB 1001](#) by Representative Charlie Stone (R-Ocala) was heard by the House State Affairs Committee and was reported favorable with 22 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

A brownfield is a property of which the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Unsafe levels of environmental contamination on a brownfield may result from past or current industrial, commercial, residential, agricultural, or recreational uses and practices. Contaminants may be found in soil, water or air. The Brownfields Program within the Department of Environmental Protection (DEP) created a process for designating brownfield areas as well as environmental contamination cleanup criteria, eligibility criteria, and liability protections that apply to brownfields in the state. The program also provides incentives, such as tax credits, to redevelop abandoned or underused real property, which was complicated by real or perceived environmental contamination. Current law states that a person can bring a cause of action in court for all damages resulting from specified discharges or other conditions of pollution if the discharge was not authorized pursuant to DEP regulations.

The bill removes the requirement that a claim for a tax credit on an additional 25% of the total rehabilitation costs for a brownfield site must be made in the final year of cleanup. The bill requires DEP to inform tax credit applicants of their eligibility status and the amount of the tax credit due by June 1 of each year, rather than May 1.

The bill also specifies that liability protections for brownfield sites are considered defenses against causes of action for all damages resulting from a discharge or certain other conditions of pollution. The bill further specifies that liability protections apply to any subsequent property owner of the brownfield site if such owner maintains compliance with any institutional controls or engineering controls required for site rehabilitation. For a cause of action brought for damages resulting from a discharge or other condition of pollution, the bill specifies that such damages may include damages to real or personal property directly resulting from the pollution rather than all damages resulting from the pollution.

HB 1001 will now move to the House floor.

**AIF supports the efforts contained in this bill to promote thorough and incentivized remediation of brownfields to allow further job creation and economic development opportunities on land otherwise useless while protecting Florida businesses from vicarious liability.**

## HEALTH CARE

### **SB 1676 – Relating to Direct Care Workers**

On Tuesday, March 3, [SB 1676](#) by Senator Ben Albritton (R-Bartow) was heard by the Senate Appropriations Committee and was reported favorable with 16 yeas and 4 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

The bill expands the scope of practice for registered nurses (RNs), certified nursing assistants (CNAs), and home health aides (HHAs) and establishes the Patient Access to Primary Care Pilot Program within the Department of Health to provide primary health care services in "primary care health professional shortage areas" by allowing Advanced Practice Registered Nurses (APRN) who meet certain criteria to engage in the autonomous practice of advanced or specialized nursing without the supervision of a physician.

SB 1676 will now move to the Senate floor.

**AIF supports legislative efforts that expand access to healthcare for employers and keeps healthcare costs low for Florida businesses.**

### **HB 607 – Relating to Health Care Practitioners**

On Friday, March 6, [HB 607](#) by Representative Cary Pigman (R-Sebring) was read a third time on the House floor and passed with 94 yeas and 12 nays.

The U.S. has a current health care provider shortage. This shortage is predicted to continue into the foreseeable future and will likely worsen with the aging and growth of the U.S. population and ongoing efforts to expand access. Florida law requires advanced practice registered nurses

(APRNs) to practice under a supervising protocol with a physician and only to the extent that a written protocol allows. Similarly, physician assistants (PAs) must practice under a supervising physician and may only perform those tasks delegated by the physician.

The bill authorizes APRNs who meet certain criteria to practice advanced or specialized nursing without physician supervision or a protocol and authorizes PAs to practice primary care without physician supervision. These APRNs and PAs may act as a patient's primary care provider; provide a signature, certification, stamp, verification, affidavit, or other endorsement currently required to be provided by a physician; certify a cause of death and sign, correct, and file death certificates.

HB 607 will now go to the Senate for consideration.

**AIF supports legislative efforts that expand access to healthcare for employers and keep healthcare costs low for Florida businesses.**

### **HB 7053 – Relating to Direct Care**

On Friday, March 6, [HB 7053](#) sponsored by the House Health Market Reform Subcommittee, was read a third time on the House floor and passed with 96 yeas and 10 nays.

The bill was amended in the last committee stop and the entirety of Representative Pigman's bill, HB 607, was added to HB 7053. Please refer to the summary and support statement for HB 607 above.

HB 7053 will now go to the Senate for consideration.

### **HB 389 – Relating to Practice of Pharmacy**

On Friday, March 6, [HB 389](#) by Representative Tyler Sirois (R-Merritt Island) was read a third time on the House floor and passed with 88 yeas and 18 nays.

Pharmacy is the third largest health profession behind nursing and medicine and the Board of Pharmacy, in conjunction with the Department of Health, regulates the practice of pharmacists and pharmacies.

The bill amends the definition of the "practice of the profession of pharmacy" to include the testing for and treatment of influenza (flu) and streptococcus (the bacteria that causes strep throat) by a pharmacist.

HB 389 will now go to the Senate for consideration.

**AIF supports increased access to care which keeps healthcare and insurance costs low for businesses while providing a healthy workforce.**

## INFORMATION TECHNOLOGY

### HB 1391 – Relating to Technology Innovation

On Monday, March 2, [HB 1391](#) by Representative James Grant (R-Tampa) was heard by the House State Affairs Committee and was reported favorable with 23 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, 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.
- 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 floor.

**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.**

## LEGAL & JUDICIAL

### SB 1582 – Relating to Asbestos Trust Claims

On Monday, March 2, [SB 1582](#) by Senator David Simmons (R-Longwood) was heard by the Senate Rules Committee and was reported favorable with 17 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

On Friday, March 6, SB 1582 was read a third time on the Senate floor and passed with 38 yeas and 0 nays.

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 go to the House for consideration.

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

## **HB 7 – Relating to Legal Notices**

On Wednesday, March 4, [HB 7](#) by Representative Randy Fine (R-Palm Bay) was read a third time on the House floor and passed with a vote of 71 yeas and 47 nays.

All meetings of a county, municipality, school board, or special district at which official acts are to be taken or at which public business is to be discussed or transacted must be open to the public and notice must be given. All legal notices and publications must be made in a newspaper that meets the following qualifications:

- Published at least once a week;
- At least 25 percent of its words are in English;
- Considered a periodical by the post office;
- For sale to the general public; and
- Contains information of interest or value to the general public in the affected area

The bill would allow a governmental agency the option to deviate from print and publish legally required advertisements and notices on a publicly accessible website.

HB 7 is now in Senate messages.

**AIF opposes internet-only public notice, as it eliminates the wide net created by print media and the internet combined. Webpages are present one day and gone the next; the internet is an inherently unreliable platform for critical information.**

### **HB 7071 – Relating to Contingency Risk Multipliers**

On Wednesday, March 4, [HB 7071](#), sponsored by the House Judiciary Committee, was read a third time on the House floor and passed with 72 yeas and 46 nays.

In certain situations, after the resolution of a court case, the court may require one party to pay the opposing party's attorney fees. Several Florida and federal statutes, known as "fee-shifting statutes," entitle the prevailing party to a "reasonable" attorney fee as a matter of right. When a fee-shifting statute applies, the court must determine what constitutes a "reasonable" attorney fee.

Florida courts calculate reasonable attorney fees under 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.

Federal case law states that a contingency fee multiplier may only be used in rare and exceptional circumstances, and that the multiplier is completely unavailable under certain federal statutes. Contrary to Federal case law, the Florida Supreme Court in 2017 ruled that the contingency fee multiplier in Florida courts is not subject to the "rare and exceptional circumstances" requirement. Thus, there is now a difference between Florida and federal law with respect to this issue.

The bill prohibits a court from using a contingency fee multiplier when calculating an attorney fee award unless an applicable statute expressly allows use of the contingency fee multiplier.

HB 7071 is now in Senate messages.

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

### **SB 810 – Relating to Fees/Tobacco Products Dealer Permits**

On Friday, March 6, [SB 810](#) by Senator David Simmons (R-Longwood) was read a third time on the Senate floor and passed with 34 yeas and 4 nays.

The bill:

- Increases the minimum age to lawfully purchase and possess tobacco products from 18 years of age to 21 years of age.
- Repeals exceptions allowing persons in the military and emancipated minors to possess or purchase tobacco products under current law.
- Prohibits smoking and vaping by any person under 21 years of age on or near school property, regardless of hours of the day.

- Limits the sale of tobacco products through a vending machine to a location that prohibits persons under 21 years of age on the premises.
- Requires age verification before a sale or delivery to a person under 30 years of age. (This complies with recently enacted federal law.

SB 810 will now go to the House for consideration.

**AIF supports moving the legal age of purchasing these products to 21 to align with Federal law.**

## TAXATION

### HB 7097 – Relating to Taxation

On Friday, March 6, [HB 7097](#), sponsored by the House Ways & Means Committee, was read a third time on the House floor and passed with 97 yeas and 16 nays.

The bill provides for several tax reductions and other tax-related modifications designed to directly impact both families and businesses. Specifically, the bill provides for a 0.5 percentage point reduction in the state communications services tax. Several provisions related to sales tax are included:

- A reduction in the tax rate for commercial property rentals from 5.5% to 5.4%;
- A three-day “back-to-school” tax holiday for certain clothing, school supplies, and personal computers; and a seven-day “disaster preparedness” tax holiday in May and June of 2020 for specified disaster preparedness items;
- A requirement that School Capital Outlay sales surtaxes approved in the future be proportionately shared with charter schools;
- A change in distributions made under the Tax Collection Enforcement Diversion Program; and
- Future sunset of the Charter County and Regional Transportation System Sales Surtax currently levied in Miami-Dade County, and a requirement that any future levy of the tax in any eligible county be limited to 20 years in duration.

The bill also provides for a one-time increase of \$8.2 million available for the brownfields tax credit program and includes a provision that amends the calculation of a taxpayer’s “final tax liability” for purposes of calculating certain corporate income tax refunds.

HB 7097 will now go to the Senate for consideration.

**AIF supports legislative actions that reduce taxes on businesses which allows further growth and employment opportunities.**