

WEEKLY UPDATE



For the 2022 Legislative Session

FROM FEBRUARY 25, 2021

Week 7 of the 2022 Session has come to a close. This week, the legislature heard proposed bills relating to consumer data privacy, health care staffing shortages and the publication of legal notices in newspapers.

On Wednesday, AIF spoke in opposition to HB 9 as the current bill will have dramatic costs to businesses associated with compliance and the possibility of frivolous lawsuits. We remain committed to working with the legislature to better address the issues proposed in the bill.

SB 1374, supported by AIF, addresses staffing shortages in health care facilities by allowing nurses to perform clinical lab work. AIF supports legislation that allows health care providers to serve Floridians with the highest levels of care.

Legal notices, addressed in HB 7049, eliminates the widely cast net that businesses rely on to receive timely legal notices that affect their day-to-day operations. Internet only public notice is inherently unreliable and for that reason, AIF will continue to fight for greater access to these notices.

For more information on these bills and others, keep reading below.

AGRICULTURE

HB 1291 – Relating to Nutrient Application Rates

On Wednesday, February 23, [HB 1291](#) by Representative Lawrence McClure (R-Plant City) was heard by the House State Affairs Committee and was reported favorable with 23 yeas and 0 nays.

AIF stood in support of this legislation.

The bill allows certified crop advisors to recommend preferred fertilizer rates to tailor nutrient application rates. The bill provides that producers using rate tailoring are required to enroll in and implement applicable best management practices (BMPs) adopted by the Department of Agriculture and Consumer Services.

HB 1291 will now go to the House floor for consideration.

AIF supports legislation which protects an agricultural producers' enrollment in the Best Management Practices program while providing the ability to specifically tailor nutrient rates based upon variables such as crop variety, site-specific conditions, meteorological events, or pest and disease pressures.

BUSINESS REGULATION

HB 9 – Relating to Consumer Data Privacy

On Wednesday, February 23, [HB 9](#) by Representative Fiona McFarland (R-Sarasota) was heard by the House Judiciary Committee and reported favorable with 13 yeas and 4 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of Amendments 301055, 126479 and 750921 by Rep. Andrew Learned (D-Brandon) and spoke in opposition to the underlying legislation.**



Adam Basford testimony on HB 9
<https://youtu.be/to992MQ5MoU>

The bill gives consumers certain rights related to personal information collected by a business and allows the Department of Legal Affairs (DLA) to enforce these rights by bringing an action against, and collecting civil penalties from, violators. Consumers whose personal information has been sold or shared after opting-out or has been retained after a request to delete or correct may also bring a cause of action. Additionally, attorney fees are one way which will lead to serial plaintiffs seeking compensation.

Amendment 301055

- This amendment would have allowed businesses to resolve potentially accidental breaches of the bill before being sued by having a right to cure.
- This amendment helped limit the exposure of Florida businesses to frivolous lawsuits by allowing prevailing parties to recover reasonable attorney fees and costs.

Amendments 126479 & 750921

- These amendments would have helped focus the effect of the bill on entities who are primarily engaged in the business of buying and selling consumer data.

Unfortunately, the amendments failed along primarily partisan lines. If passed, these amendments would have helped resolve some of the most significant issues that we have brought to light and would have made this bill significantly better.

HB 9 will now go to the House floor for consideration.

AIF opposes legislation that imposes onerous mandates with significant financial burdens on private businesses. Additionally, AIF opposes the private right of action without a right to cure that will open a Pandora's box of costly lawsuits for the business community which creates the jobs that drive Florida's economy. AIF supports the privacy of consumers, but this must be done at the federal level to avoid a patchwork of regulations across every state.

SB 1564 – Relating to Telephone Solicitation

On Wednesday, February 23, [SB 1564](#) by Senator Travis Hutson (R-Palm Coast) was read a second and third time on the Senate floor and passed with 38 yeas and 1 nay.

In 2021, [SB 1120](#) was passed and prevented telephonic sales calls using automated systems that select numbers **OR** the usage of automated systems that dial the numbers. This bill further clarifies that telephonic sales calls may not be made using automated number generators **AND** automated dialers, i.e., robocalls. The bill allows telephonic sales calls with human interaction and therefore clarifies the intent of the original 2021 bill to prevent robocalls to called parties that have not made an inquiry.

SB 1564 will now go to the House for consideration.

AIF supports legislative efforts that address some of the issues created by the 2021 passage of SB 1120 dealing with telephone solicitation to allow businesses to use certain systems to conduct legitimate telephone solicitation.

HB 337 – Relating to Administrative Procedures

On Wednesday, February 23, [HB 337](#) by Representative Stan McClain (R-Ocala) was heard by the House State Affairs Committee and was reported favorable with 23 yeas and 0 nays. **AIF stood in support of this legislation.**

The bill requires each agency to review its rules every 5 years in order to provide assurances that all of its rules are consistent with current statutory authority and to repeal those rules that are no longer necessary or authorized by current statutory authority. If an agency fails to re-promulgate its rules, the current bill will automatically repeal such rules. Simple inaction by an agency would eliminate rules without public input. Potential automatic repeal of agency rules is problematic because there is no opportunity for stakeholder involvement or comment and the process creates substantial regulatory uncertainty, potential hardship, and a lack of transparency.

The amended bill accomplishes the intended goal by amending the existing requirements for annual agency review of existing rules and increasing the authority of the Legislature's Joint Administrative Procedures Committee to ensure the agencies are following the new directives.

The amended bill bolsters the current annual regulatory plan by:

- Including a mandatory and continuous 5-year review of all agency rules, including a schedule for repeal of those rules that an agency determines are not consistent with current statutory authority.
- Limiting additional rulemaking to needed changes utilizing established procedures,
- Accomplishes goal of comprehensive and ongoing rule review to assure consistency with current law, and
- Creating a fully transparent process within current robust public notice and participation requirements.
- Reducing the burden on the regulated community and other interested stakeholders by focusing resources on rules identified as inconsistent with existing authority.

HB 337 will now go to the House floor for consideration.

AIF supports legislative efforts that clarify and streamline adherence to rules which affect all regulated industries and businesses in the state as uncertainty creates unnecessary hardships in an already difficult time.

ENERGY

HB 741 – Relating to Net Metering

On Monday, February 21, [HB 741](#) by Representative Lawrence McClure (R-Plant City) was heard by the House State Administration and Technology Appropriations Subcommittee and was reported favorable with 9 yeas and 6 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

On Wednesday, February 23, HB 741 was heard by the House Commerce Committee and was reported favorable with 17 yeas and 4 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

Net metering is a metering and billing methodology where customer-owned renewable generation (such as rooftop solar panels) is allowed to offset the customer's electricity consumption from utility providers. Under net metering, customers are credited for excess energy produced which flows back to the grid. A meter is used to record both electricity drawn from the grid and excess electricity that flows to the grid from the customer.

HB 741 will now go to the House floor for consideration.

AIF supports legislation that allows Florida's utility providers to best serve the state and the businesses located here while reducing the financial burden passed on to the general customer base.

ENVIRONMENT

HB 909 – Relating to Pollution Control Standards

On Tuesday, February 22, [HB 909](#) by Representative Bobby Payne (R-Palatka) was read a second time on the House floor and was rolled to third reading to be voted on.

On Thursday, February 24, HB 909 was read a third time on the House floor and passed with 98 yeas and 16 nays.

Risk-based corrective action is a decision-making process used to assess and respond to incidents of contamination. The bill specifies that the Secretary of Environmental Protection has exclusive jurisdiction in setting standards or procedures for evaluating environmental conditions and assessing potential liability for the presence of contaminants on land that is classified as agricultural and is being converted to a nonagricultural use. The bill prohibits the Secretary from delegating such authority to a city, a county, or another unit of local government through a local

pollution control program, but it does not preempt the enforcement authority of a local government through a local pollution control program.

HB 909 will now go to the Senate for consideration.

[SB 1210](#), the Senate companion bill, is in the last of three committee stops.

AIF supports legislation unifying regulatory authority over site assessments for current or former agricultural lands by making the Florida Department of Environmental Protection the sole authority for evaluating environmental conditions and assessing potential liability for the presence of contaminants on current or former agricultural properties.

HEALTH CARE

SB 1374 – Relating to Clinical Laboratory Testing

On Monday, February 21, [SB 1374](#) by Senator Ana Maria Rodriguez (R-Doral) was heard by the Senate Appropriations Committee and was reported favorable with 18 yeas and 0 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

Currently, advanced practice registered nurses, registered nurses, licensed practical nurses, and licensed clinical laboratory personnel are permitted to perform testing at alternate-sites (lab testing under control of a hospital but not on-site) which allows for bedside, ER and operating room testing. A freestanding emergency department (FED) is a facility that receives individuals for emergency care and is structurally separate from a hospital. Only licensed clinical laboratory personnel may perform clinical laboratory testing in a FED. The bill exempts individuals who perform alternate-site testing outside of a central laboratory of a hospital or at a hospital-based, off campus emergency department from clinical laboratory personnel licensure requirements. This allows all individuals, not just licensed clinical laboratory personnel, to perform alternate-site testing within a hospital or in a FED.

SB 1374 will now go to the Senate Rules Committee.

AIF supports permitting registered nurses to perform moderately complex lab tests, outside of a clinical lab, but within a hospital department or an off-site hospital-based emergency department to ensure greater access to quality care.

LEGAL & JUDICIAL

HB 7049 – Relating to Legal Notices

On Monday, February 21, [HB 7049](#) by the House Judiciary Committee, was heard by the House State Affairs Committee and was reported favorable with 13 yeas and 7 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, spoke in opposition to this legislation.**



Adam Basford testimony on HB 7049
<https://youtu.be/3YWBalk4pIQ>

In 2021, the Florida Legislature passed legislation that modernized public notice. It was a collective piece of legislation that took input from a variety of stakeholders, including the business community, and, importantly, ensured businesses and individuals would not lose access to critical information gained from public notice - most especially regarding private property rights, including judicial notice of sale.

The bill gives a governmental agency the option to publish legal notices on a publicly accessible website instead of in a print newspaper, essentially repealing and replacing the legislation from last year which will negatively impact businesses.

HB 7049 will now go to the House floor for consideration.

AIF opposes legislation that imposes onerous mandates with significant financial burdens on private businesses. Additionally, AIF opposes the private right of action without a right to cure that will open a Pandora's box of costly lawsuits for the business community which creates the jobs that drive Florida's economy. AIF supports the privacy of consumers, but this must be done at the federal level to avoid a patchwork of regulations across every state.

SB 7014 – Relating to COVID-19-Related Claims Against Health Care Providers

On Thursday, February 24, [SB 7014](#) by the Senate Judiciary Committee was signed by the Governor and assigned Chapter No. 2022-10.

The bill extends the length of time that health care providers receive liability protections from COVID-19-related claims. According to legislation passed during the 2021 Legislative Session, liability protections from COVID-19-related claims apply to claims accruing within 1 year after the effective date of the act, which was March 29, 2022. The bill extends the application period of the liability protections, making them applicable to claims accruing before June 1, 2023. The net result of the bill is to extend the liability protections for about 14 months, from March 29, 2022, to June 1, 2023.

SB 7014 has been signed into law.

AIF supports legislation that protects the Florida health care community, who has been on the frontline during the pandemic, from frivolous and costly litigation by plaintiffs suing to settle.

TELECOMMUNICATIONS

SB 1800 – Relating to Broadband Infrastructure

On Tuesday, February 22, [SB 1800](#) by Senator Jim Boyd (R-Bradenton) was heard by the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development and was reported favorable with 11 yeas and 0 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

The amended bill creates the Broadband Pole Replacement Program, to be administered by the Office of Broadband within the Department of Economic Opportunity. The Program will reimburse eligible broadband Internet service providers for their costs incurred for the removal and replacement of existing utility poles in areas of Florida that are unserved by broadband Internet service.

SB 1800 will now go to the Senate Appropriations Committee.

AIF supports efforts to increase economic development in Florida's rural areas by expanding access to broadband internet which allows residents to connect with employers and educators which in turn strengthens the workforce and access to high wage jobs.

SB 1802 – Relating to Broadband Pole Replacement Trust Fund

On Tuesday, February 22, [SB 1802](#) by Senator Jim Boyd (R-Bradenton) was heard by the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development and was reported favorable with 11 yeas and 0 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

The amended bill creates the Broadband Pole Replacement Trust Fund within the Department of Economic Opportunity. The bill is linked to SB 1800 which creates the Broadband Pole Replacement Program within the Department's Office of Broadband.

SB 1802 will now go to the Senate Appropriations Committee.

AIF supports efforts to increase economic development in Florida's rural areas by expanding access to broadband internet which allows residents to connect with employers and educators which in turn strengthens the workforce and access to high wage jobs.