

# WEEKLY UPDATE



*For the 2022 Legislative Session*

**FROM MARCH 4, 2021**

As we finish the penultimate week of session, the legislature heard a litany of proposed bills from consumer data privacy, insurance issues, and solutions to clinical staffing shortages.

AIF opposed HB 9 because of the drastic compliance costs to businesses and the looming threat of litigation. Florida must remain the most business-friendly state in the nation, and HB 9 takes us in the wrong direction.

HB 1728, relating to insurance issues, was another bill that AIF supported this week. The rising costs of insurance due to frivolous litigation must be reined in, and this bill addresses many of those cost drivers to businesses.

As we have all seen, there is a major staffing shortage amongst the health care community. SB 1374 addresses those shortages by allowing nurses to provide clinical testing outside of a central laboratory or hospital. AIF proudly supported this bill to ensure Floridians have greater access to high-quality care.

For more information on legislation heard this week, keep reading below:

## **BUSINESS REGULATION**

### **HB 403 – Relating to Local Ordinances**

On Monday, February 28, [HB 403](#) by Representative Mike Giallombardo (R-Cape Coral) was heard by the House State Affairs Committee and was reported favorable with 14 yeas and 9 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

The bill

- Requires counties and municipalities to prepare a “business impact statement” before the adoption of any proposed ordinance, which statement must be published on the local government’s website and contain specified information;
- Provides for expedited court review of challenged ordinances; and
- Establishes criteria for courts to consider when determining if an ordinance is arbitrary or unreasonable.

HB 403 will now go to the House floor for consideration.

**AIF supports legislation bolstering the rights of businesses to recoup undue losses at the hands of local governments to maintain a prosperous business climate in Florida.**

### **HB 1197 – Relating to Employee Organizations Representing Public Employees**

On Monday, February 28, [HB 1197](#) by Representative Scott Plakon (R-Longwood) was heard by the House State Affairs Committee and was reported favorable with 14 yeas and 10 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

On Friday, March 4, HB 1197 was read a third time on the House floor and passed with 60 yeas and 47 nays.

The bill requires a public employee who wants to join an employee organization to sign a membership authorization form that contains the following acknowledgment:

- I acknowledge and understand that Florida is a right-to-work state, and that union membership is not required as a condition of employment. I understand that union membership and payment of union dues and assessments are voluntary and that I may not be discriminated against in any manner if I refuse to join or financially support a union.

The bill requires an employee organization to revoke a public employee's membership upon receipt of the employee's written request. If the public employee must complete a form to request revocation, the form may not require the public employee to provide a reason for membership revocation.

HB 1197 will now go to the Senate for consideration.

**AIF supports legislation that helps Florida compete for and protect workers and further enhances the economic development in the state.**

### **SB 536 – Relating to Administrative Procedures**

On Monday, February 28, [SB 536](#) by Senator Manny Diaz (R-Hialeah) was heard in 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.**

On Friday, March 4, SB 536 was read a third time on the Senate floor and passed with 36 yeas and 0 nays.

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 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 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.

SB 536 will now go to the House 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.**

## **HB 9 – Related to Consumer Data Privacy**

On Tuesday, March 1, [HB 9](#) by Representative Fiona McFarland (R-Sarasota) was read a second time on the House floor and was placed on third reading to be voted on. **AIF provided the House of Representatives with a letter indicating AIF's support of the pro-business amendments 258739, 663407 and 848401 which would have made the underlying legislation significantly better.**

On Wednesday, March 2, HB 9 was read a third time on the House floor and passed with 103 yeas and 8 nays.

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 258739:**

- Created a 10 day “right to cure” period, allowing businesses to resolve potentially accidental breaches of the bill before being sued.
- Helped limit the exposure of Florida businesses to frivolous lawsuits by allowing prevailing parties to recover reasonable attorney fees and costs.

**Amendments 663407 and 848401:**

- These amendments helped focus the effect of the bill on entities who are primarily engaged in the business of buying and selling consumer data as many companies are pulled into the bill with the very broad definition of “share.”

Unfortunately, the amendments failed along 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 Senate 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.**

## **ECONOMIC DEVELOPMENT**

### **HB 489 & SB 434 – Relating to Florida Tourism Marketing**

On Tuesday, March 1, [HB 489](#) by Representative Linda Chaney (R-St. Petersburg) was substituted for SB 434 by Senator Ed Hooper (R-Palm Harbor) on the House floor and was placed on third reading to be voted on.

On Wednesday, March 2, [SB 434](#) was read a third time on the House floor and passed with 98 yeas and 17 nays.

VISIT FLORIDA is the name for the Florida Tourism Industry Marketing Corporation, a non-profit that serves as Florida's statewide destination marketing organization and represents the state's tourism industry. Under SB 434, the scheduled repeal date for VISIT FLORIDA and the Division of Tourism Marketing is extended from October 1, 2023, to October 1, 2028.

SB 434 will now go back to the Senate floor for consideration.

**AIF supports investment in building a world-class marketing engine with top talent, analytics, and funding that develops and executes data-driven branding strategies to bolster tourism and further the economic growth of Florida.**

## ENERGY

### **SB 1024 & HB 741 – Relating to Renewable Energy Generation & Net Metering**

On Tuesday, March 1, [SB 1024](#) by Senator Jennifer Bradley (R-Orange Park) was heard by the Senate Rules Committee and was reported favorable with 12 yeas and 4 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

Also on Tuesday, March 1, [HB 741](#) by Representative Lawrence McClure (R-Plant City) was read a second time on the House floor and was rolled to third reading to be voted on.

On Wednesday, March 2, HB 741 was read a third time on the House floor and passed with 83 yeas and 31 nays.

On Friday, March 4, HB 741 was read a second time on the Senate floor and was placed on third reading to receive votes.

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 be read a third time on the Senate floor and receive votes.

**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 & SB 1210 – Relating to Pollution Control Standards and Liability

On Monday, February 28, [SB 1210](#) by Senator Ben Albritton (R-Bartow) was heard by the Senate Appropriations Committee and was reported favorable with 19 yeas and 0 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

On Wednesday, March 2, SB 1210 by Senator Ben Albritton (R-Bartow) was substituted for [HB 909](#) by Representative Bobby Payne (R-Palatka) on the Senate floor and HB 909 passed with 38 yeas and 0 nays.

As a matter of common practice in real estate transactions and other permitting, environmental assessments are conducted to ensure there are not any environmental contamination issues. In a vast majority of transactions on agricultural lands, a relatively simple “phase 1” assessment suffices. However, recently some municipalities have implemented new criteria which presume all agricultural lands are contaminated. As such, they must complete a “phase 2” assessment which includes taking representative samples throughout the entire parcel for analysis.

The bill specifies that the Secretary of Environmental Protection (Secretary) 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.

HB 909 will now go to the Governor.

**AIF supports legislation which protects the normal and customary procedures for environmental assessments on agricultural lands. AIF further supports 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 Tuesday, March 1, [SB 1374](#) by Senator Ana Maria Rodriguez (R-Doral) was heard by the Senate Rules Committee and was reported favorable with 17 yeas and 0 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

On Thursday, March 3, SB 1374 was read a second and third time on the Senate floor and passed with 39 yeas and 0 nays.

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 House for consideration.

**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.**

### **SB 804 – Relating to Modernization of Nursing Home Facility Staffing**

On Tuesday, March 1, [SB 804](#) by Senator Ben Albritton (R-Bartow) was heard by the Senate Rules Committee and was reported favorable with 12 yeas and 4 nays. **AIF’s Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

The bill amends multiple sections of the Florida Statutes to modify nursing home staffing requirements. The bill modifies the definition of “resident care plan” and defines the terms “direct care staff” and “facility assessment.” The bill allows the currently required 3.6 hours of direct care to be met with direct care staff rather than requiring it be met by certified nursing assistant (CNA) and nurse staffing. The bill also reduces the requirement that a nursing home provides a minimum of 2.5 hours of CNA staffing per resident per day to 2.0 hours of staffing per resident per day.

SB 804 will now go to the Senate floor for consideration.

**AIF supports legislative efforts that expand access to high quality care and keep health care costs low for Florida businesses.**

## INSURANCE

### SB 1728 – Relating to Property Insurance

On Monday, February 28, [SB 1728](#) by Senator Jim Boyd (R-Bradenton) was heard by the Senate Appropriations Committee and was reported favorable with 18 yeas and 2 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in opposition to Amendment 700006 and stood in support of the underlying legislation.**

On Thursday, March 3, SB 1728 was read a second and third time on the Senate floor and passed with 28 yeas and 11 nays.

The bill addresses contractor solicitations related to property insurance roof claims, the type of homeowners' insurance coverage that insurers must offer for roof losses, and various aspects of Citizens Property Insurance Corporation. The bill allows contractors to make written or electronic communications to potential consumers to contact a contractor or public adjuster for the purpose of making an insurance claim for roof damage only if the following disclosures are included:

- The consumer is responsible for payment of any insurance deductible;
- It is insurance fraud punishable as a felony of the third degree for a contractor to pay, waive, or rebate all or part of an insurance deductible applicable to payment to the contractor for repairs to property covered by a property insurance policy; and
- It is insurance fraud punishable as a felony of the third degree to intentionally file an insurance claim containing any false, incomplete, or misleading information.

SB 1728 will now go to the House for consideration.

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

## LEGAL & JUDICIAL

### SB 1302 – Relating to Criminal History Information

On Monday, February 28, [SB 1302](#) by Senator Danny Burgess (R-Zephyrhills) was heard by the Senate Appropriations Committee and was reported favorable with 19 yeas and 0 nays. **AIF's Vice President of Governmental Affairs, Adam Basford, stood in support of this legislation.**

The bill revises the process by which a regulatory board within the Department of Business and Professional Regulation (DBPR) may consider the criminal background of license applicants. The

bill revises the process for a court-ordered sealing of a criminal record to allow a criminal history record to be sealed if the record has been automatically sealed by the State of Florida.

SB 1302 will now go to the Senate floor.

**AIF supports legislative efforts that allows individuals with sealed records at the State level to petition local government to further seal their records. Businesses in Florida drive the economy and employers need employees. A sealed record at the state level is indicative of amends made, and therefore these subjects should have access to well-paying jobs that keep Florida moving forward.**

### **HB 7049 – Relating to Legal Notices**

On Tuesday, March 1, [HB 7049](#) by the House Judiciary Committee, was read a second time on the House floor and was placed on third reading to be voted on.

On Wednesday, March 2, HB 7049 was read a third time on the House floor and passed with 78 yeas and 39 nays.

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 Senate for consideration.

**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.**

## TELECOMMUNICATIONS

### **SB 1800 & SB 1802 – Relating to Broadband Infrastructure & Relating to Broadband Pole Replacement Trust Fund**

On Monday, February 28, [SB 1800](#) by Senator Jim Boyd (R-Bradenton) 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.**

Also on Monday, February 28, [SB 1802](#) by Senator Boyd 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.**

On Thursday, March 3, SB 1800 was read a second and third time on the Senate floor and passed with 36 yeas and 0 nays.

Also on Thursday, March 3, SB 1802 was read a second and third time on the Senate floor and passed with 34 yeas and 0 nays.

SB 1800 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 1802 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 1800 & SB 1802 will now go to the House for consideration.

**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.**

## TRANSPORTATION

### **SB 474 & HB 145 – Relating to Recreational Off-Highway Vehicles Weight Limits**

On Thursday, March 3, [SB 474](#) by Senator Keith Perry (R-Gainesville) was substituted for [HB 145](#) by Representative Brett Hage (R-The Villages) on the House floor and SB 474 was placed on third reading to be voted on.

On Friday, March 4, SB 474 was read a third time on the House floor and passed unanimously with 112 yeas and 0 nays.

The bill increases the dry weight allowed for recreational off-highway vehicles (ROV) from 2,500lbs to 3,500lbs. This increase is necessary to allow for the development of electric powered ROVs because the battery components often weigh significantly more than internal combustion vehicles.

SB 474 will now go to the Governor.

**AIF supports legislation that encourages revisions to outdated regulations that bolster the business climate and drive competition for new and better products for Florida's businesses and consumers.**