



# DAILY BRIEF

From February 22, 2012

Midway through Week 7, AIF continues to maintain a solid presence in the halls. AIF's involvement is evidenced by the progression of the business community's top priorities through committee and to the Floor of the House & Senate. These proposals include:

- SB 668 Relating to Workers' Compensation Medical Services by Senator Alan Hays (R-Umatilla) is one of AIF's top legislative priorities in 2012. Supported by AIF's Workers' Compensation Coalition, this legislation focuses on addressing a loophole in the Workers' Compensation system that allows physicians to dispense repackaged drugs and charge employers exorbitant prices that greatly exceed the statutory reimbursement for the same pharmaceuticals dispensed by pharmacies.
- HB 1323 by Representative Brad Drake (R-DeFuniak Springs) increases the penalty for those secondary metal recyclers who knowingly and intentionally accept stolen materials. Metal theft plagues Florida employers across various sectors.
- HB 609 Relating to Wage Protection for Employees by Representative Tom Goodson (R-Titusville) provides that the regulation of wage theft is expressly preempted to the state – a practice that AIF and the business community strongly supports.

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## Workers' Compensation

Members of the Senate Health Regulation Committee unanimously passed SB 668 Relating to Workers' Compensation Medical Services by Senator Alan Hays (R-Umatilla).

This legislation focuses on addressing a loophole in the Workers' Compensation system that allows physicians to dispense repackaged drugs and charge employers exorbitant prices that greatly exceed the statutory reimbursement for the same pharmaceuticals dispensed by pharmacies. The existing loophole allows repackaged or relabeled prescription drugs to be dispensed at rates up to 679% more than what a pharmacy would charge. In fact, it has been estimated that SB 668 will have the potential to save private sector employers \$62 million in workers' compensation rates.

The Workers' Compensation Coalition and its more than 60 members have made the drug repackaging issue one of their major priorities for the upcoming Legislative Session. SB 668 will establish fairness with workers' compensation prescription drug reimbursement rates, reduce the rising workers' compensation rates that Florida businesses are being forced to pay and ensure that workers' compensation patients receive premium medical treatment.

A series of amendments were filed this afternoon to an underlying amendment sponsored by Senator Don Gaetz (R-Destin). Sen. Gaetz's original strike-everything amendment included provisions that were agreed upon by AIF, the Florida Medical Association, and insurance carriers that ensured that physician's could still dispense medications at their offices while still protecting the underlying intent of the bill which is to provide employers with a reduction in rates for workers' compensation coverage.

Senator Rene Garcia (R-Hialeah), Chairman of the Health Regulation Committee, filed a subsequent amendment that put into question the savings included in the original bill. On



the surface, this well-intentioned amendment would provide rebates to carriers for the costs of physician-dispensed medications, but in reality it would do nothing to control the practice of inflating the costs of medications for workers' compensation patients. During public testimony, representatives from NCCI – the state's rate-making entity – testified to the fact that the Garcia amendment would in fact increase rates by 1.4%. **AIF's General Counsel, Tammy Perdue**, spoke in opposition to the Garcia amendment stating that the employer community could not accept any policy changes that would lead to an increase in rates.

The amendments adopted today were not rolled into the bill, but instead will travel with the bill to its next stop. This will hopefully make it easier to deal with as we attempt to bring the bill back to its original intent. SB 668 will now proceed to its final stop in the Senate Banking and Insurance Committee. An identical measure in the House – HB 511 by Representative Matt Hudson (R-Naples) – awaits hearing in the House Economic Affairs Committee.

**AIF SUPPORTS legislation that will reduce Florida employers' workers' compensation costs and restore predictability to our state's workers' compensation system.**

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## **Environmental**

The House State Affairs Committee overwhelmingly approved HB 999 by Representative Chris Dorworth (R-Heathrow).

This proposed legislation repeals the statewide onsite sewage treatment and disposal system inspection program that was created in 2010. Under this bill, local governments will decide whether they want to have an inspection program for septic tanks. If a county has a first magnitude spring, they will have to pass an ordinance to "opt-out" of the program and all other local governments will have to "opt-in" the program. In addition, local governments will decide who will conduct the inspections. There is a grandfather clause for those local governments with inspection programs already in place.

HB 999 cleared its final committee of reference and is now ready for the House calendar.

**AIF SUPPORTS onsite sewage treatment and disposal legislation that is both workable and mindful of environmental sustainability. AIF has been working closely with the Florida Home Builders Association and the Florida Association of Realtors on this proposal.**

Several proposals addressing the issue of metal theft were also considered on Wednesday. Metal theft is plaguing our state and AIF has been working with the Floridians for Copper & Metal Crime Prevention Coalition since 2008 fighting this crime. Today, the House Judiciary Committee unanimously approved two of them.

HB 1323 by Representative Brad Drake (R-DeFuniak Springs) increases the penalty for those secondary metal recyclers who knowingly and intentionally accept stolen materials from a misdemeanor of the first degree to a felony of the third degree. It also places the same penalty on a person who knowingly and intentionally removes, or assists with the removal of certain metals from an electrical substation without authorization of the utility. Finally, the bill sets a definition for an "electrical substation" in the statute.

Substations across the state have been vandalized by metal theft costing the utility and rate payers hundreds of thousands of dollars in replacement of parts and repairs. Hopefully with the increased penalty, thieves will think twice before committing this crime.

The other metal theft priority measure approved today was HB 885 by Representative Clay Ford (R-Pensacola). This legislation aims to prevent metal theft by clarifying permissible types of personal identification necessary for the legal sale of regulated metal; prohibits cash transactions on restricted regulated metal property and for those which require proof of ownership; prohibits checks for metal purchases to be sent to a P.O. Box; and implements a statewide effort to keep metal thieves from “shopping” stolen properties to cities and counties with less onerous penalties.

AIF and the Floridians for Copper & Metal Crime Prevention Coalition believes that these precautionary actions will help deter thieves from bringing stolen items to a legitimate secondary metal dealer and reduce such crimes that effect businesses across the state.

HB 1323 is now ready for action on the House Floor while HB 885 has one remaining stop in the House Economic Affairs Committee.

**AIF and the Floridians for Copper & Metal Crime Prevention Coalition SUPPORT legislation that will enact precautionary methods to help deter the removal of metal from private property and government structures, causing economic loss for both the private and public sectors.**

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## **Growth Management**

The House Economic Affairs Committee took up and passed HB 651 by Representative Daniel Davis (R-Jacksonville).

This legislation authorizes local building code administrators and building officials to accept electronic submission of construction plans, drawings, specifications, reports, and other documents with approval of the building administrator or building official and allows licensees to electronically seal documents.

HB 651 is now ready for consideration on the House Floor.

**AIF SUPPORTS legislation that will generate cost savings resulting from efficiencies associated with electronic filing.**

The House Economic Affairs Committee also took up HB 979 Relating to Developments of Regional Impact by Representative Jose Felix Diaz (R-Miami).

This legislation contains several provisions, including direction stating that reviewing agencies may make only recommendations or comments regarding a proposed development which are consistent with the statutes, rules, or adopted local government ordinances that are applicable to developments in the jurisdiction where the proposed development is located.

In addition, the proposal includes a new exemption from the process which applies to any proposed development that is located in a local government jurisdiction that:

- Does not qualify for an exemption based on the population and density criteria in s. 257 380.06(29)(a)
- Is approved as a comprehensive plan amendment adopted pursuant to s. 163.3184(4),
- Qualifies for an incentive program pursuant to chapter 288; *and*
- That the developer, local government, and Department of Economic Opportunity agree in writing that the development-of-regional- impact review process does not apply.

Passing with unanimous consent, the measure will now advance to the House Floor.

**AIF SUPPORTS legislation that allows developers, local governments, and the newly created Department of Economic Opportunity DEO to elect to use the state coordinated review process for certain developments and thus provide significant cost and time savings for private developers.**

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## **Business Regulation**

The House Judiciary Committee passed HB 609, “Wage Protection for Employees,” sponsored by Representative Tom Goodson (R-Titusville) by a vote of 12-6.

This legislation provides that the regulation of wage theft is expressly preempted to the state. Therefore, local governments may not regulate over and above the existing state and federal laws. The bill also defines "wage theft" as an illegal or improper underpayment or nonpayment of an individual worker's wages, salaries, commissions, or other similar form of compensation.

HB 609 was filed in response to Miami-Dade County’s formation of a local process for employees to file claims for unpaid wages outside of the processes available under state and federal law. Currently, there are numerous legal avenues already available for employees to recoup wages. The Miami-Dade ordinance exposes employers to false claims by disgruntled employees. This scenario forces the employer to defend themselves from potentially fraudulent and costly claims.

An amendment was introduced and adopted by Rep. Goodson that addresses concerns brought forth by my members. As amended, HB 609 provides greater protections for employers who face unpaid wage claims. The amended provisions state that employees must notify their employer of their intention to initiate a claim and it provides employers with a specific time to pay the total amount of unpaid wages and prohibits the use of class action law suits.

HB 609 will now proceed to the House floor for a full vote. An identical measure in the Senate – SB 862 by Senator David Simmons (R-Altamonte Springs) – is currently in the Senate Judiciary Committee.

**AIF SUPPORTS legislation that will clarify the state’s authority to pre-empt local governments from regulating wage theft. A “patchwork” arrangement of local ordinances provides confusion and uncertainty to Florida’s employers.**