



WEEKLY UPDATE

For the 2019 Legislative Session

From April 26, 2019

HEALTH CARE

SB 1180 – Relating to Consumer Protections from Nonmedical Prescription Drug Formularies

On Tuesday, April 23, **SB 1180** by Senator Debbie Mayfield (R-Melbourne) was heard before the Senate Rules Committee and was reported favorably with 15 yeas and 1 nay. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation with the adoption of Amendment 635224.**

On Friday, April 26, SB 1180 was read on the Senate floor and passed with a vote of 39 yeas and 1 nay.

A major driver of health care costs is the rising cost of medicines. Drug companies raise the prices of both new and old medicines at will. No government body—not the Federal Trade Commission, not the Food and Drug Administration, and not the Centers for Medicare & Medicaid Services—have rules or laws that dictate or restrict the price a pharmaceutical company can set for a drug - and in most cases, there's nothing that restricts how much a drug company can raise that price. This bill would eliminate the only current force to counter the price increases on pharmaceuticals – the threat of losing insurance coverage, which helps push back on arbitrary price hikes.

With the adoption of Amendment 635224 to the underlying bill, this bill now levels the playing field by requiring that a pharmaceutical company must lock in their prices up front – like any other industry – and, in return, the insurance company can't drop the drug (except for safety reasons).

SB 1180 is now in House messages.

AIF supports legislation that keeps in place cost controls and prevents increased healthcare costs for Florida businesses.

LEGAL & JUDICIAL

SB 772 – Relating to Liens Against Motor Vehicles and Vessels

On Tuesday, April 23, **SB 772** by Senator Kelli Stargel (R-Lakeland) was heard in the Senate Rules Committee and was reported favorably with 16 yeas and 0 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Currently, towing companies and auto repair shops, among others, may impose a lien on automobiles for towing and storage charges, as well as unpaid repair costs. The current statute requires the lienor to give the auto owner and all parties that have a financial interest in the auto notice of the lien and the public sale of the auto to cover paying off the lien.

Unfortunately, some “bad actors” in Florida have been abusing our current system by:

- Manipulating the time period for sending the notice of lien and notice of sale to eliminate the owner or finance company’s ability to pay the charges and recover the auto;
- Sending empty envelopes to the entity that has lien on the auto for providing the financing of the auto;
- Imposing very high administrative fees for perfecting the lien and enforcing the lien;
- Adding unreasonable or fraudulent charges to the towing or repair bill to justify the sale of the auto and keeping all proceeds of the sale.

SB 772 will now move to the Senate floor.

AIF supports legislation that prevents the increase in insurance rates. When ‘bad actor’ companies take advantage of the current lien laws, insurance rates become improperly inflated and has a harmful effect on many sectors of the business community.

SB 1730 – Relating to Community Development and Housing

On Tuesday, April 23, **SB 1730** by Senator Tom Lee (R-Brandon) was heard in the Senate Rules Committee and was reported favorably with 10 yeas and 6 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

This bill amends various statutes relating to growth management, restricts the ability of a county or municipality to adopt and enforce inclusionary housing ordinances or regulations, and sets timeframe parameters for building application approval or denial. After receiving a development permit application, the county and municipality must review the application for completeness and issue a response within 30 days. The bill also requires the collection of impact fees, which are an important source of revenue for local governments to fund infrastructure projects. Additionally, the bill prohibits a local government from charging an

impact fee for the development or construction of affordable housing but provides an exception under certain circumstances.

SB 1730 will now move to the Senate floor.

AIF supports legislative efforts to maintain our state's infrastructure and assist Florida's workforce with access to affordable housing.

HB 107 – Relating to Texting While Driving

On Thursday, April 25, **HB 107** by Representative Jackie Toledo (R-Tampa) was read on the Senate floor and was substituted for SB 76 and passed with a vote of 33 yeas and 5 nays.

The Florida Ban on Texting While Driving Law prohibits a person from texting, emailing, and instant messaging while driving but is considered a secondary offense, meaning law enforcement cannot stop a driver solely for texting. This bill makes the use of a wireless communication device while driving a primary offense, allowing law enforcement to stop individuals for wireless device usage while behind the wheel.

HB 107 passed both chambers and will now go to the Governor.

AIF supports legislation that addresses the issue of distracted driving and will ensure public safety for businesses and Floridians operating on our roadways.

SB 862 – Relating to Lessor Liability Under Special Mobile Equipment Leases

On Thursday, April 25, **SB 862** by Senator Kelli Stargel (R-Lakeland) was read on the Senate floor and passed with a vote of 29 yeas and 8 nays.

Florida's Dangerous Instrumentality Doctrine (DID) was created in the early 20th century, a time where automobiles began traveling on public roads. The doctrine has been expanded far beyond the borders of its original intent and now applies to off-highway vehicles such as golf carts, tractors, and construction equipment. The doctrine holds owners or lessors liable for the harm caused by an operator, even when the lessor is not in control of the equipment or vehicle at the time of the incident. Florida is the only state in the country where DID is applied in this manner.

This bill provides that lessors of special mobile equipment are not liable for the acts of the lessee or lessee's agent or employee if the lease agreement requires documented proof of insurance coverage containing limits of at least \$250,000 per person and up to \$500,000 per incident for bodily injury liability and up to \$100,000 for property damage liability, or at least

\$750,000 for combined property damage liability and bodily injury liability. Special mobile equipment are vehicles not designed or used primarily to transport persons or property and that are only incidentally operated or moved over a highway. Examples include ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, draglines, self-propelled cranes and earthmoving equipment.

SB 862 is now in House messages.

AIF supports the protection of owners and lessors from vicarious liability which is harmful to Florida's business community.

HB 7111 – Relating to Constitutional Amendments

On Thursday, April 25, **HB 7111**, sponsored by the House Judiciary Committee, was read on the House floor and passed with a vote of 71 yeas to 41 nays.

This bill changes the process for amending the constitution by citizen initiative by:

- Requiring that a petition-gatherer:
 - Register with the Secretary of State prior to obtaining signatures.
 - Not be paid based on the number of petitions gathered.
- Requiring the Secretary of State to publish on its website position statements on proposed amendments received from interested persons.
- Directing the Financial Impact Estimating Conference (FIEC) to:
 - Estimate the amendment's impact on the state and local economy.
- Requiring the ballot summary to include:
 - The name of the initiative's sponsor and the percentage of contributions received by the sponsor from in-state donors;
 - If the amendment will cost money or have an indeterminate impact; and
 - A Supreme Court determination as to whether the proposed policy can be implemented by the Legislature without the need for a constitutional amendment.
- Directing the Attorney General, when seeking Supreme Court review of an amendment, to ask the Court to:
 - Address whether the proposed policy can be implemented by the Legislature; and
 - Identify any undefined terms in the amendment that will have a substantive impact; and
 - Address whether the amendment creates any constitutional issues.

HB 7111 is now in Senate messages.

AIF supports legislation that adds transparency and accountability to amending the Florida constitution by citizen imitative.

HB 829 – Relating to Attorney Fees and Costs

On Thursday, April 25, **HB 829** by Representative Anthony Sabatini (R-Clermont) was read on the House floor and passed with a vote of 74 yeas and 37 nays.

Florida law states that a court may impose sanctions on a party or attorney who raises a frivolous claim or defense or unreasonably delays a judicial proceeding. The court may require the culpable party or attorney to pay for the other party's attorney fees. A party can appeal a court's award or denial of sanctions; however, the appellate court must affirm the award or denial, unless the lower court abused its discretion. This bill entitles a party to attorney fees and costs if the party prevails in an action challenging a local government ordinance as preempted. However, attorney fees and costs may not be awarded if the local government withdraws or repeals the ordinance within 21 days after receiving a written claim that the ordinance is preempted or the filing of a motion seeking attorney fees and costs under the new statutory section, whichever occurs first. The bill prospective and only applies to cases commenced on or after July 1, 2019.

HB 829 is now in Senate messages.

AIF supports legislative attorney fee reform that helps prevent onerous fees imposed on businesses post-litigation.

HB 7103 – Relating to Property Development

On Thursday, April 25, **HB 7103**, sponsored by the House Judiciary Committee, was read on the House floor and passed with a vote of 72 yeas and 37 nays.

Property development in Florida is governed in part by both the Community Planning Act and the Florida Building Code. The Community Planning Act governs how local governments create and adopt local comprehensive plans, implement land development regulations, and issue development orders and permits. Every local government must enforce the Building Code and issue building permits. Local governments impose impact fees to fund local infrastructure needed to expand local services to meet the demands of population growth caused by development.

This bill changes property development regulations by:

- Restricting counties and municipalities from adopting or imposing certain mandatory affordable housing ordinances;
- Imposing time limits for a county or municipality to review a development order or permit application;

- Reducing the time period building departments have to review a permit application when a private provider approves the plans;
- Prohibiting a building official from replicating plan reviews or inspections performed by a private provider;
- Amending how a local government may impose impact fees.

HB 7103 is now in Senate messages.

AIF supports legislative efforts to remove onerous regulations imposed on any part of Florida’s business community.

TAXATION

HB 7123 – Relating to Taxation

On Thursday, April 25, **HB 7123**, sponsored by the House Ways and Means Committee, was read on the House floor and passed with a vote of 69 yeas and 44 nays.

The bill provides for several tax reductions and other tax-related modifications designed to directly impact both families and businesses. Specifically, this bill provides:

- A reduction in the tax rate for commercial property rentals from 5.7% to 5.35%;
- A three-day “back-to-school” holiday for certain clothing, school supplies, and personal computers, and
- A seven-day “disaster preparedness” holiday for specified disaster preparedness items. Regarding property taxes, the bill includes the following:
 - The timing of payments to local governments in fiscally constrained counties and Monroe County to offset property tax refunds granted to homeowners due to hurricanes in 2016 and 2017 would be slightly delayed in fiscal year 2019-20 to allow for the related state appropriation to be based on actual data, instead of an estimate.

HB 7173 is now in Senate messages.

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

SB 1000 – Relating to Communication Services

On Friday, April 26, **SB 1000** by Senator Travis Hutson (R-Palm Coast) was read on the Senate floor and passed with a vote of 34 yeas and 3 nays.

This bill changes the way the use of public rights-of-way by providers of communications services are governed. Specifically:

- Creating a civil cause of action for any person aggrieved by a violation of the right-of-way statute;
- Prohibiting a local government from instituting, “either expressly or de facto, a moratorium or other mechanism that would prohibit or delay” permits for collocation of small wireless facilities or related poles;
- Deleting the authority for a local government to require performance bonds and security funds. Instead, the bill allows them to require a construction bond;
- Allowing a provider of communications services to add a local government to any existing bond, insurance policy, or other financial instrument, and requiring the local government to accept such coverage;
- Prohibiting a local government from requiring a permit applicant to provide inventories, maps, or locations of communication facilities in the rights-of-way, unless it is necessary to avoid interference with existing facilities.

SB 1000 is now in House messages.

AIF supports legislation that will both reduce the communications services permitting process and have a positive financial impact on Florida’s consumers, many of whom are businesses that pay for cable or satellite service.

ECONOMIC DEVELOPMENT

HB 7071 – Relating to Workforce Education

On Thursday, April 25, **HB 7071**, by the Higher Education and Career Readiness Subcommittee, was read on the House floor and passed with a vote of 108 yeas and 0 nays.

The bill promotes apprenticeships, enhances talent development, and increases career opportunities for Floridians by:

- Creating the “Strengthening Alignment between Industry and Learning to 60” Initiative and establishing a statewide attainment goal to increase the percentage of working-age adults who hold a high-value postsecondary certificate, degree, or training experience to 60 percent by the year 2030.
- Revising the school grades formula to recognize career certificate clock hour dual enrollment and establishing formal career dual enrollment agreements between high schools and career centers.
- Establishing a “College and Career Decision Day” to recognize high school seniors for their postsecondary education and career plans.
- Creating the Florida Pathways to career Opportunities Grant Program.
- Requiring financial literacy as a one-half credit hour.

AIF supports legislation that gives students tools to learn about relevant, and real life subjects that will prepare them for the workforce in the future.

INSURANCE

SB 1140 – Relating to Attorney Fees and Costs

On Tuesday, April 23, **SB 1140** by Senator Travis Hutson (R-Palm Coast) was heard before the Senate Rules Committee and was reported favorably with 10 yeas and 7 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

This bill authorizes the payment of attorney fees and costs to a party challenging the adoption or enforcement of a local government ordinance on preemption grounds if a court finds that the subject of the ordinance has been preempted by the Constitution or State law. However, a local government may avoid liability for attorney fees and costs if the challenged ordinance is repealed or withdrawn within 21 days of either (1) receiving written notice of the claim or (2) the filing of a motion for attorney fees, whichever is earlier.

SB 1140 will now move to the Senate floor.

AIF supports legislation that removes onerous regulations and creates a climate in which business can grow.

HB 7065 – Relating to Insurance Assignment Agreements

On Wednesday, April 24, **HB 7065**, sponsored by the House Civil Justice Subcommittee, was read a third time on the Senate floor and passed with a vote of 25 yeas and 14 nays.

Unfortunately, auto glass was removed from legislation on the House floor.

The abuse of the one-way attorney fee statute in relation to “assignment of benefits” (AOB) has created a relatively new form of litigation over auto glass repairs and property damage. These legal abuses are perpetrated by a handful of lawyers and vendors who work together to strip benefits away from policyholders and use these to force higher settlements from insurers, and even go so far as to sue in the name of the policyholder, often without the policyholder’s consent. This bill helps prevent future abuse of AOBs by:

- Limiting an assignee’s ability to recover certain costs from the insured;
- Requiring the assignee to give the insurer notice of the assignee’s intent to file a lawsuit;
- Requiring the insurer to respond to the assignee’s notice;
- Setting the formula that will determine which party, if any, receives an award of attorney fees should litigation related to an assignment agreement result in a judgment; and
- Allowing an insurer to offer a policy prohibiting assignment.

HB 7065 passed both chambers and will now go to the Governor.

AIF supports reforms to the AOB process to protect consumers against these abuses that drive up insurance costs.

TRANSPORTATION

HB 311 – Relating to Autonomous Vehicles

On Wednesday, April 24, **HB 311** by Representative Jason Fischer (R-Jacksonville) was read on the House floor and passed with a vote of 110 yeas and 0 nays.

This bill authorizes the use of vehicles in autonomous mode in the state. The autonomous technology would be considered the human operator of the motor vehicle and provides that various provisions of law regarding motor vehicles such as rendering aid in the event of a crash do not apply to vehicles in autonomous mode if the vehicle owner, or person on behalf of the owner, promptly contacts law enforcement. The bill also specifies that statutory provisions relating to unattended motor vehicles, wireless communication devices, and television receivers do not apply to autonomous vehicles (AVs) operating with the automated driving system engaged. The bills also remove the requirement for a person to possess a valid driver license to operate a fully autonomous vehicle.

HB 311 is now in Senate messages.

AIF supports modernizing state law to accommodate for self-driving technologies that open the door for safe, reliable modes of AVs in a competitive marketplace with clear, limited government regulations.

ENERGY

SB 796 – Relating to Public Utility Storm Protection Plans

On Friday, April 26, **SB 796** by Senator Joe Gruters (R-Sarasota) was read on the Senate floor and passed with a vote of 37 yeas and 2 nays.

This bill aims to harden Florida's utilities grid against tropical storm and hurricane damage with proposed under-grounding of electric infrastructure. The bill would require public utility companies (Florida Power and Light, Duke Energy Florida, Gulf Power Company, Tampa Electric Company, and the Florida Public Utilities Corporation) to submit a transmission and distribution storm protection plan to the Public Services Commission, with updates required at least every three years. Data collected after Hurricane Irma showed that underground lines suffered minimal outages during storms.

SB 796 is now in House messages.

AIF supports actively seeking ways to harden our state's infrastructure and more effectively prepare for hurricanes and tropical storms to ensure that power is quickly restored.