

WEEKLY UPDATE



From February 26, 2016

TAX CUTS

As the 2016 Session is winding down it is crucial that the Legislature focus in on solidifying a budget for the 2016-2017 fiscal year. Associated Industries of Florida's (AIF's) President and CEO Tom Feeney, is proud to stand by Governor Scott and his \$1 billion tax cut proposal.

View Tom Feeney's message at <https://youtu.be/G6tniDzBT9w>

AGRICULTURE

HB 59-Relating to Agritourism

On Tuesday, February 23rd, **HB 59**, relating to Agritourism, by **Rep. Neil Combee (R-Auburndale)** was read a third time and passed through the Senate floor unanimously with a vote of 35 yeas and 0 nays.

This bill prohibits local governments from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under Florida's greenbelt law. An "agritourism activity" is any agricultural related activity consistent with a bona fide farm or ranch or in a working forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions.

Agritourism is one of the many methods farmers use to diversify and increase their income.

Previous action taken, on February 18th, on the Senate floor provided for HB 59 to be substituted for its Senate companion **SB 304**. Therefore, HB 59, will now go to Governor Scott's desk to be signed into law.

AIF supports any legislation that allows Florida farmers to safely expand their businesses through the use of Agritourism.

DEPARTMENT OF AGRICULTURE

SB 1010- Relating to the Department of Agriculture and Consumer Services

On Thursday, February 25th, **SB 1010** relating to the Department of Agriculture and Consumer Services, by **Senator Bill Montford (D-Tallahassee)** was heard before the **Senate Appropriations Committee** and passed unanimously with 16 yeas and 0 nays.

This bill addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (DACS). During this committee hearing Senator Alan Hays (R-Umatilla) offered up an amendment, amendment 835292 that will address the regulation of the use and sale of polystyrene (Styrofoam) products. With the adoption of this amendment the bill will preempt the regulation of these Styrofoam products to DACS. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this amendment.**

SB 1010 will now go to the Senate floor for consideration.

AIF supports preempting to the state the sale and use of polystyrene (Styrofoam) products.

ECONOMIC DEVELOPMENT

HB 1325- Relating to Economic Development

On Wednesday, February 24th, **HB 1325**, relating to Economic Development, by **Rep. Jim Boyd (R-Bradenton)** was removed from its last committee of reference and sent to the House floor. HB 1325 was then read for a third time on the House floor and passed with 79 yeas and 39 nays.

HB 1325, much like its Senate companion **SB 1646**, is a very broad based economic development package that will bring the state and local governments together to improve their investment climate and business environment to enhance competitiveness, retain jobs, create jobs and improve incomes. This bill will modify economic development definitions, processes and administration.

HB 1325 will now go to the Senate floor for consideration.

AIF supports legislation that will bolster Florida's business community throughout the state and help our state become the premiere location to move and grow your business.

ENERGY

SB 318- Relating to Regulation of Oil and Gas Resources

On Thursday, February 25th, **SB 318**, relating to Regulation of Oil and Gas Resources, by **Senator Garrett Richter (R-Naples)** was heard by the **Senate Appropriations Committee** and was reported unfavorable with 9 yeas and 10 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this bill.**

SB 318 makes many revisions to the Oil and Gas Program (Program) to make this program safer and more effective for all involved. The Department of Environmental Protection's (DEP) Mining and Minerals Regulation Program in the Division of Water Resource Management (Division) oversees permitting for oil and gas drilling, production, and exploration within Florida through its Oil and Gas Program. The Program's primary responsibilities include conservation of oil and gas resources, correlative rights protection, maintenance of health and human safety, and environmental protection.

After the vote was taken **Senator Lizbeth Benacquisto (R-Fort Myers)** moved that the bill be reconsidered and that motion was adopted keeping the bill alive. As we await the next move for SB 318, AIF will keep members abreast of the progress made.

AIF supports the need to maintain appropriate permitting laws to protect the environment, to enhance efficiency between industry and the state, and to ensure appropriate standards are clearly communicated.

Please read the statement from our Senior VP of State and Federal Affairs, Brewster Bevis, released Thursday, February 25th, regarding SB 318:

AIF Statement Urging Members of the Senate Appropriations Committee to Approve Legislation Regulating Onshore Oil & Gas Activities

Tallahassee, Fla. – The **Associated Industries of Florida (AIF)** today released the following statement attributable to its Senior Vice President of State and Federal Affairs Brewster Bevis, urging members of the Senate Appropriations Committee to pass Senate Bill 318, sponsored by Senator Garrett Richter (R-Naples).

"Currently, hydraulic fracturing, or fracking, is legal and unregulated in Florida; and, the onshore oil and gas industry is operating in a regulatory gray area without stringent rules and regulations in place to properly govern activities that have been made possible due to advances in technology."

"And, while the onshore oil and gas industry has been responsibly operating in the State of Florida for more than seven decades, these advances in technology have made it necessary to institute rules and regulations to better oversee and properly regulate this activity."

"Fortunately, Senator Garrett Richter's SB 318, if adopted by the Florida Senate, would empower the Florida Department of Environmental Protection (DEP) to provide comprehensive oversight of the onshore oil and gas industry. Among other provisions, SB 318 would call for a temporary and immediate moratorium on all high-pressure well stimulation techniques until:

- 1) a \$1 million independent, peer-reviewed study on the effects of high-pressure well stimulation techniques is complete)
- 2.

DEP institutes new rules and regulations to govern the onshore oil and gas industry based on the study's findings; and, 3) the rules and regulations instituted by DEP are also reviewed and ratified by the Florida Legislature."

"AIF's concerns do remain regarding the inclusion of a moratorium or a study in this legislation, as we believe they are unnecessary because the industry has been operating safely and responsibly Sunshine State, but we do understand the necessity to make certain that Florida's environment is protected and preserved in light of advances in technology."

"AIF respectfully urges members of the Senate Appropriations Committee to support this good bill today that provides DEP with the power necessary to regulate the onshore oil and gas industry throughout our state."

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HEALTH CARE

SB 212-Relating to Ambulatory Surgical Centers

On Thursday, February 25th, **SB 212**, relating to Ambulatory Surgical Centers, by **Senator Don Gaetz (R-Destin)** was heard by the **Senate Appropriations Committee** and unanimously passed with 17 yeas and 0 nays.

The bill in its original form only addressed regulations for ambulatory surgical centers. However, at this committee, Senator Gaetz added language encompassing a wide array of health care topics, including the prohibitions on step therapy and authorization protocols that insurers use to control costs of treatment.

AIF stood in opposition to this lengthy health care amendment that was added today to SB 212 by Senator Gaetz.

SB 212 now requires Medicaid managed care plans, health maintenance organizations (HMOs), and insurers that restrict medications by a step-therapy or fail-first protocol to have a clear and convenient process to request an override of the protocol. The bill requires these entities to grant an override of the protocol within 24 hours if, based on sound clinical evidence or medical and scientific evidence, the prescribing provider:

- Concludes that the preferred treatment required under the fail-first protocol has been ineffective in the treatment of the enrollee's disease or medical condition; or
- Believes that the preferred treatment required under the fail-first protocol is likely to be ineffective given the known relevant physical or mental characteristics and medical history of the enrollee and the known characteristics of the drug regimen or will cause or is likely to cause an adverse reaction or other physical harm to the enrollee.

AIF believes this action to be redundant and unnecessary given that insurers already have a protocol in place if incidents, such as ineffective treatment of the enrollee's disease or medical condition, occurs.

SB 212 will now go to the Senate floor for final consideration.

AIF opposes legislation that will negatively impact the standards of care that are currently in place based on real-time protocols that are centered on evidence-based research.

SB 1442-Relating to Out-of-network Health Insurance Coverage

On Thursday, February 25th, **SB 1442**, relating to Out-of-network Health Insurance Coverage, by **Senator Rene Garcia (R-Hialeah)** was heard by the **Senate Appropriations Committee** and passed 17 yeas to 0 nays.

The intent of this bill is to protect consumers from balance billing when that situation occurs in an emergency setting; the balance bill is the difference between the provider's charges and the amount the provider has received in reimbursement from the consumer's insurance plan. Provider charges in Florida are often 100 times more than Medicaid charges, so this legislation should cap a significant cost driver in today's health care system.

In today's committee there was some debate over an amendment filed to the bill which would have prohibited insurance companies from denying coverage for procedures incurred once premiums are not paid by a policy holder. **AIF's General Counsel Tammy Perdue** testified against the amendment and cautioned the committee about the consequences that prohibition could have on employers if those charges were passed onto them by the insurer. The amendment was not adopted. AIF will remain vigilant throughout the closing weeks of this session to guard against legislation with unintended but expensive consequences for Florida's employers.

SB 1442 will now go to the Senate floor for consideration.

AIF supports legislation that requires a patient to be presented with documentation regarding any charges for out-of-network services.

SB 1686- Relating to Telehealth

On Thursday, February 25th, **SB 1686**, relating to Telehealth, sponsored by **Senator Aaron Bean (R-Jacksonville)** was heard by **Senate Appropriations Committee** and passed with 17 yeas to 0 nays. **AIF's General Counsel, Tammy Perdue, stood in support of this bill.**

SB 1686 creates a Telehealth Task Force within the Agency for Health Care Administration (AHCA), authorizes healthcare practitioners in Florida to provide telehealth services, and defines telehealth. The task force is chaired by the Secretary of the AHCA or his or her designee, the State Surgeon General and 21 other members, including other health care practitioners, providers, telehealth services providers and sellers, and facilities. *(Amendment 419202 changed the previous amount of members on the task force from 17 to 21).

The bill requires the task force to compile data and submit a report by June 30, 2017, to the Governor, the President of the Senate, and the Speaker of the House of Representatives that analyzes:

- Frequency and extent of the use of telehealth nationally and in this state;
- Costs and cost savings associated with using telehealth;
- Types of telehealth services available;
- Extent of available health insurance coverage available for telehealth services; and
- Barriers to implementing the use of, using, or accessing telehealth services.

The bill also requires the task force to hold its first meeting by September 1, 2016, and to meet as frequently as necessary to complete its work.

SB 1686 will now go to the Senate floor for consideration.

AIF supports legislation that permits an unfettered role for telehealth services that will allow our citizens access to better quality care at lower costs.

LEGAL & JUDICIAL

SB 912- Relating to Fraudulent Activities Associated with Payment Systems

On Wednesday, February 24th, **SB 912**, relating to Fraudulent Activities Associated with Payment Systems, by **Senator Anitere Flores (R-Miami)** was heard before the **Senate Rules Committee** and passed by a vote of 10 yeas to 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this bill.**

This bill addresses "skimming" at gas stations, specifically at gas pumps themselves, which has become a significant issue in the state of Florida. "Skimmers" are typically found on the gas pumps themselves, disguised as the usual everyday credit card reader. Unbeknownst to the customer, their credit card information is stolen.

During recent investigations, the Department of Agriculture and Consumer Services (DACS) has found that skimmed payment information is being used as part of elaborate fraud schemes to purchase hundreds of gallons of gas that is pumped into unapproved, hidden gas tanks in vans, SUVs, and trucks. Such gas is then usually resold by the criminals to independent truck drivers at a fraction of its usual cost.

SB 912 addresses fraudulent activity occurring at fuel stations by:

- Increasing from a third degree felony (maximum penalty of 5 years in state prison) to a second degree felony (maximum penalty of 15 years in state prison) for the unlawful conveyance of fuel;
- Requiring a retail petroleum fuel measuring device to have affixed to or installed onto the measuring device at least one security measure described in the bill and authorizing the Florida Department of Agriculture and Consumer Services, under certain circumstances, to prohibit further use of the measuring device until a security measure is installed, replaced, or repaired;
- Indicating that possession of counterfeit cards is unlawful (not specified in current law); and

- Increasing the offense severity level ranking for unlawful conveyance of fuel and trafficking in or possession of counterfeit credit cards.

This bill will now go to the Senate floor for consideration.

AIF supports this legislation due to it cracking down on theft from Florida retailers while also protecting Florida's consumers.

SB 562- Relating to Consumer Debt Collection

On Wednesday, February 24th, **SB 562**, relating to Consumer Debt Collection, by **Senator Kelli Stargel (R-Lakeland)** was heard in front of the **Senate Fiscal Policy Committee** and passed with 7 yeas and 4 nays. **AIF's General Counsel, Tammy Perdue, stood in support of this bill.**

SB 562 seeks to better define the parameters by which an attorney representing a debit or debtor must notify a creditor of their representation in order for that creditor to properly direct communications concerning the debt. During today's committee, through the amendment process, there was some confusion as to whether the bill's scope would be expanded. However, the amendments which were adopted, actually narrow the application of the bill to situations in which an attorney communicates the representation to the creditor.

The next stop for SB 562 will be on the floor of the Senate.

AIF supports legislation that eliminates a current scam against Florida's employers while also protecting legitimate debt collection processes by companies.

SB 196- Relating to Public Records/State –Funded Infrastructure Bank

On Wednesday, February 24th, **SB 196**, relating to Public Records/State-funded Infrastructure Bank, by **Senator Travis Hutson (R-Palm Coast)** was substituted for its House companion, **HB 267**, read for a third time on the House floor and passed by a vote of 88 yeas to 19 nays.

Currently, the state-funded infrastructure bank (SIB) is housed within Department of Transportation (department). The SIB provides loans and credit enhancements to public and private entities for constructing and improving transportation facilities. This bill creates a public record exemption for the financial statements or other financial information that is required for the application to the SIB.

However, the public records exemption does not apply to the financial records of an applicant who is in default of an SIB loan.

This exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2021 unless this bill is reenacted by the Legislature.

SB 196 will now go to the desk of Governor Scott to be signed into law.

AIF supports protecting the financial information of private companies.

PROPERTY RIGHTS

HB 559-Relating to Self-Storage Facilities

On Monday, February 22nd, **HB 559**, relating to Self-Storage Facilities by **Rep. Mike LaRosa (R-St. Cloud)** was referenced to another committee hearing in the **House Appropriations Committee** after passing through the **House Regulatory Affairs Committee** earlier this month. As the last **House Appropriations Committee** meeting was called to order, HB 559 was temporarily postponed, effectively killing the bill for the 2016 legislative session.

HB 559 substantially revise the process that the owner of a self-storage facility may advertise and sell the personal property of a delinquent tenant. Under the bill, owners are no longer required to advertise a property sale via a local newspaper; such advertisements may now be posted in any "commercially reasonable manner." Rather than rely on the courts to determine precisely what "commercially reasonable" means, the bill defines the term itself. If at least three bidders—all of whom are unrelated to the seller—attend the sale or register to bid online at the sale, the advertisement is commercially reasonable.

The Senate companion to this bill, **SB 720**, has also been temporarily postponed in the **Senate Regulated Industries Committee.**

AIF continues to support requirements that public notices be printed in local newspapers as defined by Chapter 50, Florida Statutes, as well as displayed on the Internet.

Below is a statement released Monday, February 26th from AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, urging members of the legislature to vote down on this bill. Due to these efforts HB 559 will not be moving on in the process.

AIF Statement Calling on House Appropriations Committee to Reject HB 559
Legislation Would Shift Current Successful Private Enterprise Practice to Government

Tallahassee, Fla. – The **Associated Industries of Florida** (AIF) today released the following statement, attributable to its Senior Vice President of State and Federal Affairs Brewster Bevis, urging House Appropriations Committee members to vote in opposition of House Bill 559, relating to self-service storage facilities.

“On behalf of the Associated Industries of Florida, I urge members of the House Appropriations Committee to prevent HB 559 from advancing any further, as it disrupts a successful public notice system, which is currently operated by free enterprise, and has made Florida a model for how to ensure the broadest possible dissemination of critical information found in public notices.

“Currently, the responsibility of posting public notices to the Internet is in the hands of newspapers. However, a recently adopted amendment moves this responsibility to the Florida Chief Financial Officer’s Office and, now, yet another amendment has been filed that would attempt to move public notice to the State Court Administrator. As AIF has always recognized the importance of free market principles, we believe that shifting this responsibility from private free enterprise and into the hands of government is a bad policy decision.

“Additionally, HB 559 would result in diminished notice and lessened access to information that is vital for Florida consumers; harm public notice by decreasing the required amount of placement places from three to one, in which the single placement would be government-run website; likely fail to decrease the cost to storage facility owners, as they would be required to pay a government entity a fee to post the notice in order to maintain staff, support and other infrastructure for this new website; and, lastly, hold taxpayers accountable for the website cost in addition to any necessary rule hearings.

“In 2012, Florida lawmakers passed legislation that strengthened the already well-recognized fact that newspapers are the best way to provide the broadest transparency through the publishing in print and posting online of public notices. And, in recent years, the Florida Legislature has made the right decision to keep public notice in print in local newspapers and on the Internet at local newspapers’ websites, as well as FloridaPublicNotices.com.

“We respectfully ask members of the House Appropriations Committee to oppose HB 559 which would shift a practice that private enterprise is already familiar with and successfully completing to the government, and which would harm Floridian’s access to critical information before the seizure of property or an auction occurs at a self-storage facility.”

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SB 416-Relating to Location of Utilities

On Wednesday, February 24th, **SB 416**, relating to the Location of Utilities, by **Senator Anitere Flores (R-Miami)** was substituted for its House companion bill, HB 461, read for a third time on the House floor and passed by a vote of 109 yeas to 4 nays.

SB 416 will address who is the responsible party for the cost of relocating utility facilities in a public easement. Easements dedicated to the public for utilities are typically located along existing road or highway rights-of-way and are available for use by a variety of utility providers. The bill flips the responsibility to bear relocation costs from the utility owner to the state or local government requiring the facilities to be relocated. The owner of a utility that requires relocation will be liable for relocation costs only if their lines and facilities are across, on or “within” the right-of-way, rather than “along” any right-of-way.

SB 416 will now go to Governor Scott’s desk to be signed into law.

AIF supports protecting the private property rights of Florida businesses.

WORKERS' COMPENSATION

SB 1402-Relating to Ratification of Department of Financial Services Rule

On Wednesday, February 24th, **SB 1402**, relating to Ratification of Department of Financial Services Rule, by **Senator David Simmons (R-Longwood)** was heard by the **Senate Fiscal Policy Committee**. and passed with 11 yeas and 0 nays. **AIF's General Counsel, Tammy Perdue, stood in support of this bill.**

SB 1402 addresses adoption of the current version of the Florida Worker's Compensation healthcare provider reimbursement manual. This manual has not been adopted or updated since 2008, leaving Florida well behind every other state in the amount of reimbursement it pays to healthcare providers for the treatment of injured workers.

This bill will now go to the Senate floor for consideration.

AIF supports legislation that will keep Florida's Workers' Compensation system a stable and self-executing mechanism that benefits both injured workers and Florida's employers.

SB 986-Relating Workers' Compensation System Administration

On Thursday, February 25th, **SB 986**, relating to Workers' Compensation Administration, by **Senator Wilton Simpson (R-Trilby)** was heard by the **Senate Appropriations Committee** and passed 19 yeas to 0 nays. **AIF's General Counsel, Tammy Perdue, stood in support of this bill.**

SB 986 provides additional administrative tools to the deep vision of Worker's Compensation for penalty enforcement and stop work order fines.

This bill will now go to the Senate floor for consideration.

AIF supports Florida's current workers' compensation law and any proposed change to the workers' compensation system - in the courtroom or Legislature - will be evaluated through the prism of coverage affordability, market stability, and employee safety.

WORKFORCE

SB 468- Relating to Computer Coding Instruction

On Wednesday, February 24th, **SB 468**, relating to Computer Coding Instruction, by **Senator Jeremy Ring (D-Margate)** was read for a third time on the Senate floor and passed by a vote of 35 yeas to 5 nays.

SB 468 would allow high school students the option of taking computer coding courses along with a related industry certification to satisfy the foreign language requirement currently in place. Under this bill high schools will provide students the opportunity to substitute two credits in computer coding and a related industry certification for two credits sequential foreign language courses (i.e. Spanish I and Spanish II; Latin I and Latin II; French I and French II; etc.).

The bill would require each district school board to submit a plan for offering computer coding to the Education Commissioner, Senate President, and Speaker of the House of Representatives by January 1, 2017.

Furthermore, SB 468, would require the Florida College System institutions and state universities to acknowledge computer coding course credits as foreign language credits.

This bill will now head to the House floor for consideration.

AIF supports legislation that will provide Florida's students the opportunity to become proficient in computer coding, which will in turn prepare our states next generation for a technology driven economy.