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## 92nd General Assembly March 6, 2019 – Session Day 52

### TODAY AT THE CAPITOL

The Senate will convene at 1 p.m. and House at 1:30 p.m. this afternoon.  
Legislative Calendar: [www.arkleg.state.ar.us](http://www.arkleg.state.ar.us)

#### UNEMPLOYMENT INSURANCE – STATE CHAMBER/AIA PRIORITY BILL

**SB 298** by Sen. Kim Hammer and Rep. Robin Lundstrum received a Do Pass recommendation yesterday morning from the House Public Health, Welfare and Labor Committee and is on this afternoon's House Calendar. This bill was developed by the Department of Workforce Services (DWS) with our support. It addresses one of our Priority Issues in the 2019 Session.

**SB 298** adjusts the amount of wages paid by employers that is subject to the unemployment insurance tax, by calculating adjusted amounts according to unemployment statistics and the fund balance of the unemployment insurance trust fund. If it was in effect today, the wage base would drop from \$10,000 to \$8,000. It is possible, that by the time the law goes into effect, the wage base could be reduced to \$7,000, which is the federally enforced minimum.

A bill we had filed in 2017 reduced the wage base from \$12,000 to \$10,000. DWS reports that change produced \$43 million in annual savings to employers. Sen. Kim Hammer told the Senate the estimated savings to the business community from **SB 298** is \$55 to \$65 million.

#### HIGHWAY FUNDING – STATE CHAMBER/AIA PRIORITY

**HJR 1018** is on this afternoon's agenda in the Senate State Agencies Committee. This ballot referral resolution seeks to amend the constitution to continue the one-half percent sales tax that provides additional funding for four-lane highways, county roads and city streets.

**SB 336** awaits the Governor's signature. It will levy an indexed wholesale tax on motor fuel and places revenue from that and other sources in the State Highway Fund for maintenance of streets, highways and bridges. It also adds annual fees of \$100 and \$200, respectively, to hybrid and electric vehicle registration and transfers casino tax revenues in excess of \$31,200,000 annually with a minimum of \$35,000,000, to the State Highway Fund.

**SB 336 and HB 1495** by Sen. Terry Rice and Rep. Mike Holcomb and **SJR 14 and HJR 1018** by Sen. Lance Eads and Rep. Jeff Wardlaw are Governor Hutchinson's highway funding plan.

#### SPECIAL ELECTIONS

**HB 1402** by Rep. Justin Gonzales and Sen. David Wallace is on this morning's agenda in the House State Agencies Committee. It would require any special elections in years with a preferential primary election or general election to be held on those election dates. It

would also require special elections in off-cycle years to be held on the Tuesday next after the first Monday in May or the Tuesday after the first Monday in November. Additional provisions include: requiring special elections be announced 75 days prior to election; providing exemptions for special elections to fill vacancies, special runoff elections, or emergency special elections; providing local boards that vote for a tax levy must be approved by voters in the next available election, and makes its effective date contingent upon sufficient funding. We are one of multiple interests opposed to this bill.

### **DECEPTIVE TRADE PRACTICES**

**HB 1462** by Rep. Jimmy Gazaway is on this morning's agenda in the House Insurance & Commerce Committee. It provides that a person has a cause of action for actual damages or injury resulting from deceptive trade practices and may recover those damages and attorney's fees. It also removes the definition of actual financial loss as used for deceptive trade practices. This bill seeks to repeal a bill we filed in 2017. We oppose this bill.

### **INVASION OF PRIVACY**

**SB 230** by Sen. Kim Hammer is on this morning's agenda in the Senate Judiciary Committee. It seeks to create a statutory civil action for invasion of privacy, authorizing a person to bring suit for damages and injunctive relief against a person who improperly intrudes into his or her private affairs or publicizes the person in a false light. We oppose this bill.

### **YESTERDAY AT THE CAPITOL**

#### **BALLOT INITIATIVE REFORM – STATE CHAMBER/AIA PRIORITY BILL**

**SB 346** was approved by the House, 78 to 13 and it is on its way to the Governor's desk.

**SB 346/HB 1489** and **SJR 10/HJR 1008** by Sen. Mathew Pitsch and Rep. DeAnn Vaught is a package designed to reform the ballot initiative process. The bills are identical, as are the Resolutions. We worked with multiple parties to develop this package.

**SB 346 and HB 1489** seek to require the State Board of Election Commissioners, rather than the Attorney General, to determine whether a submitted ballot title and popular name are sufficient. These bills also amend the signature approval process by the Secretary of State. Finally, the bills clean up requirements on signature gatherers.

**SJR 10 and HJR 1008** seek to amend the constitution to revise the process for ballot petitions. It repeals the 30-day signature cure period, moves the filing deadline for initiatives and signatures to January 15 and sets a deadline to file legal challenges on April 15, both dates in the General Election year. It also increases the vote majority required by the Legislature to make amendment referrals from a simple majority to a three-fifths (60%) majority and increases the number of counties from which a set number of signatures are required from 15 counties to three-fifths of the counties (45).

**HB 1489** awaits consideration in the Senate State Agencies Committee.

**SJR 10 and HJR 1008** await consideration in their respective State Agencies Committees.

### **FOIA EXPANSION**

**SB 231** by Sen. Kim Hammer failed to receive a motion yesterday morning in the Senate State Agencies Committee. The bill sought to redefine public records and the Freedom of Information Act to extend to a private entity expending a minimum of 20 percent of its time, resources and efforts in support of a government entity. It awaits consideration in the Senate State Agencies Committee. We joined many entities opposing this bill.

### **LOW READING ASSESSMENT LEVELS**

**SB 349** by Sen. Alan Clark received a Do Pass recommendation from the Senate Education Committee yesterday. It seeks to create personnel reporting requirements for schools based on low reading assessment levels, revising achievement gap categorical funding and making the school ineligible in year three for funding if no improvements are made. It awaits consideration in the Senate Education Committee. We support this bill.

## CONSTITUTIONAL AMENDMENT REFERRALS

### STATE CHAMBER/AIA SUPPORTS

Each regular session, the General Assembly may refer up to three proposals to the next General Election Ballot. A fourth is available to address legislative salaries, which is rarely used. The State Chamber/AIA's priorities are the Governor's Highway plan and ballot initiative reform, which are described above.

### TERM LIMITS AND TORT REFORM

Eight joint resolutions were filed that address "term limits" and three joint resolutions that address "tort reform."

#### Term Limits

**SJR 15 and HJR 1020** are identical joint resolutions by Sen. Alan Clark and Rep. Jim Dotson. We appreciate all the efforts in the legislature to address an issue that is very important to the State Chamber/AIA. But, if the General Assembly chooses to refer a term limits resolution, we believe **SJR15/HJR1020** is the better option.

**SJR 15 and HJR 1020** seek to cap legislators' service at 12 consecutive years, but they could return after a four-year waiting period. If they so choose, sitting members would be allowed to finish their 16 years available under the current term limits laws. These resolutions originally applied to the judiciary, but that has been amended out. Although we like this proposal, it also contains language that would limit future term limits changes to the General Assembly. We are not comfortable with the future limitation changes.

**HJR 1012** by Rep. DeAnn Vaught seeks to cap legislative service after 12 years, consecutive or not, in the House and the Senate, but not to exceed 16 years of total service.

**HJR 1026** by Rep. Jim Dotson seeks to cap legislative service at four two-year terms in the House and two four-year terms in the Senate. It also would limit future term limits changes to the General Assembly.

**SJR 11** by Sen. Will Bond would limit service to 12 years, consecutive or not, in the General Assembly. Legislators who serve 12 years may run again after 10 years, which would trigger a new 12-year term limit.

Of the eight total "term limits" joint resolutions, three were shell bills: **HJR 1017, HJR 1028 and SJR 16.**

#### Tort Reform

**SJR 8**, if referred and adopted, will authorize the General Assembly to adopt caps on punitive and noneconomic damages. That means, in the 2021 session, the legislature will have the ability to file bills and debate various options, ranging from caps on both punitive and noneconomic, only one of them, or none at all. The State Chamber/AIA was involved in the drafting of **SJR 8** and fully supports it.

Two other identical measures were filed, **HJR 1022 and SJR 17**. These measures will authorize the General Assembly to adopt caps on punitive damages only. While the State Chamber/AIA appreciates the willingness of those sponsors to consider damage caps, a measure allowing for a cap on punitive damages only does not go far enough. In order for damage caps to truly work to the benefit of our economy and healthcare system, caps on noneconomic damages should also be part of the legislature's authority.

### SOVEREIGN IMMUNITY

**SJR 2** by Sen. Dave Wallace seeks to amend the Arkansas Constitution to provide that the State of Arkansas shall never be made a defendant in any state court unless otherwise provided by law. This is a response to a court case that changed the historic status of sovereign immunity. This is an important issue that we believe would be a good alternative if a consensus cannot be reached on term limits or tort reform.

## BILLS WE SUPPORT

## CONCURRENT CHALLENGE SCHOLARSHIP

**SB 343** by Sen. James Sturch is on tomorrow's agenda in the House Education Committee. It would create the Arkansas Concurrent Challenge Scholarship, establishing requirements, funding and award amounts. It would require that the student be a resident, or at least one parent be a resident, in order to be eligible for the scholarship. It would fund the scholarship with excess funding returned to the Office of the Arkansas Lottery from the previous academic year. Also, it would provide that \$20,000,000 is needed to maintain the Scholarship Shortfall Reserve Account; if less than \$250,000 is available, a scholarship will not be awarded. Finally, it would provide that a student may be awarded \$125 for up to two endorsed concurrent enrollment credit courses. We support this bill.

## WORKERS' COMPENSATION

**HB 1650** by Rep. Jack Ladyman and Sen. Dave Wallace is on tomorrow's agenda in the House Public Health, Welfare and Labor Committee. This bill is sponsored by the Arkansas Self Insured Association. The bill creates a priority lien when a workers' compensation claim has been created by the fault of a third party. It also addresses dismissal of stale cases. We support this bill.

## TRANSPORTATION

**HB 1561** by Rep. Austin McCollum and Sen. Mat Pitsch awaits consideration in the Senate Transportation Committee. This bill would authorize a firm or individual to operate up to three fully autonomous vehicles on streets and highways when participating in a pilot program approved by the State Highway Commission. It also seeks to provide that the autonomous vehicle pilot program will automatically be approved 60 days after it is submitted to the Highway Commission. We support this bill.

## LICENSING AND REGULATION

**HB 1060** by Rep. Roger Lynch was amended yesterday and awaits consideration in the House Public Health, Welfare and Labor Committee. It would implement requirements for continuing education for heating, ventilation, air conditioning and refrigeration licensees, providing that all applications after July 1, 2020 must be accompanied by proof of completion of mandated courses. It would charge the HVACR Licensing Board with establishing the continuing education program and promulgating rules and guidelines for its administration by Dec. 31, 2019. This is an industry-supported bill.

## BILLS WE OPPOSE

### PROPERTY TAX ASSESSMENT CHALLENGES

**HB 1562** by Rep. Stephen Meeks and Sen. Missy Irvin and others awaits consideration in the House Revenue and Taxation Committee. It seeks to change the process regarding payment of property taxes when there is an assessment dispute. Currently, personal property taxpayers who challenge their assessment pay any undisputed amount and the balance is paid into escrow with the Circuit Court until the case is decided. Real property taxpayers, including mineral rights owners who challenge their assessment, are not required to pay any of their tax until the case is decided. The reason for this historic handling of these cases is the fact that personal property is mobile while real property cannot move. As filed, **HB 1562** seeks to treat real property taxpayers who challenge their assessment the same as personal property challenges, which requires payment at the beginning of the challenge.

Historically, mineral interests have been treated as real property. The value of mineral interests is subject to volatile and wide changes in value, driven by oil/gas prices that lead to assessment challenges. We believe **HB 1562** goes too far by treating all real property the same way as personal property when there is an assessment challenge. An amendment adopted this week did not change our position to oppose this bill.

## PUBLIC BANK

**SB 390** by Sen. Hammer is expected to be considered tomorrow in the Senate State Agencies Committee. This bill seeks to require state agencies to deposit all cash funds into the State Treasury Money Management Trust to be invested. It also seeks to: exempt higher education institutions and payments by the Department of Education from the Public School Fund to districts, require charges and fees be deposited into the Long

Term Reserve Fund that were previously deposited into the State Treasury in a fund to benefit the Treasurer of State, and designate interest earned on the Long Term Reserve Fund as special revenue.

We join our banking members, the Arkansas Bankers Association and others in opposing this bill's creation of a public bank because:

The Current Marketplace is Meeting Financial Needs

- The regulated Arkansas banking system has a long track record of meeting deposit needs and there is no evidence to the contrary.

A Public Bank is Risky Business

- The state has enough to worry about without adding banking to its responsibilities.
- Decisions can become driven by politics and capital reserves can be diverted for other political priorities.

- Funds will not be insured with the FDIC like banks. For deposits over the FDIC insurance levels, banks must pledge securities to insure them.

Schools Benefit Most with the Current System

- Will the state pay over market rate on deposits? Banks do.

- Banks directly support school infrastructure. They build gyms, football fields and contribute funds to many school infrastructure needs.

- For some hometown banks, these deposits are their biggest form of liquidity. These deposits allow banks to, in turn, make home loans, farm loans, small business loans and more, which, in turn, allows banks to invest funds into schools and the community.

### **NIGHT SKY PROTECTION**

**HB 1309** by Rep. Stephen Meeks awaits consideration in the House Public Health, Welfare & Labor Committee. As filed, this bill seeks to create the Nighttime Environment Protection Act to regulate outdoor night lighting fixtures. It would also establish cost and other considerations for a state agency, public corporation, county, or municipality to use public funds to operate, maintain, install, or cause to be installed, shielded outdoor lighting in new or replacement outdoor lighting fixtures. An amendment was adopted yesterday. We have multiple members opposed to this bill.

### **STATE CHAMBER/AIA TRACKED BILLS**

New House bills filed yesterday: 28 | Total House bills filed: 709

New Senate bills filed yesterday: 8 | Total Senate bills filed: 499

New bills added to our tracking: 9 | Total tracked bills and resolutions: 404

New bills added to our tracking: [https://arkansasstatechamber-my.sharepoint.com/:w:/p/khall/Efrh-veDqOFHsIGqmOK3AxABCWXeON\\_gyZ8apWf0\\_4yWcA?e=EgA61O](https://arkansasstatechamber-my.sharepoint.com/:w:/p/khall/Efrh-veDqOFHsIGqmOK3AxABCWXeON_gyZ8apWf0_4yWcA?e=EgA61O)

All bills we are tracking are posted on our website, by category, and can be reviewed by clicking this link: <https://www.arkansasstatechamber.com/governmental-affairs/legislative-tracking/>

### **LEGISLATIVE SESSION INFORMATION**

To view schedules, calendars, bill information and legislator information, click [www.arkleg.state.ar.us](http://www.arkleg.state.ar.us).

### **Legislative Message Center**

House of Representatives: 501-682-6211

Senate: 501-682-2902

### **State Chamber/AIA 2019 Legislative Agenda**

To review our 2019 Legislative Agenda, click this link:

<https://www.arkansasstatechamber.com/wp-content/uploads/2019/01/AR-StateChamberAIA-2019-Legislative-Agenda.pdf>

### **Live Streaming from the Capitol**

The House and Senate have links to live streaming of their committee meetings and floor session online.

- House: <https://www.arkansashouse.org/>

- Senate: <http://www.arkansas.gov/senate/>

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