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92nd General Assembly April 8, 2019 – Session Day 85

TODAY AT THE CAPITOL

The Senate will convene at 1 p.m. and the House at 1:30 p.m.
Legislative Calendar: www.arkleg.state.ar.us

SESSION MAY END ON WEDNESDAY

The number of committees meeting is greatly reduced and their calendars are quite short. The Revenue Stabilization Bills (**HB 1876** and **SB 597**) were amended Friday and will be considered this morning by the Joint Budget Committee. If approved by Joint Budget, then the identical RSA bills will be voted on in their originating Chamber tomorrow and the opposite Chamber on Wednesday. This would conclude the 92nd General Assembly. See article below for information on the RSA bills.

BALLOT INITIATIVE REFORM – STATE CHAMBER/AIA PRIORITY LEGISLATION

HJR 1008 by Rep. DeAnn Vaught and Sen. Mat Pitsch *is on this afternoon's Senate Calendar*. It was developed by the State Chamber/AIA with the help of the attorneys who represented us in many ballot initiative challenges and in cooperation with the Arkansas Attorney General and Arkansas Secretary of State.

A successful vote this afternoon will make **HJR 1008** the third measure referred to the 2020 General Election Ballot by this General Assembly. If referred and approved by voters, **HJR 1008** would repeal the 30-day signature cure period, move the filing deadline for initiatives and signatures to January 15 and set a deadline to file legal challenges on April 15, both dates in the General Election year. They also would increase the vote majority required by the Legislature to make amendment referrals from a simple majority to a three-fifths (60 percent) majority and increase the number of counties from which a set number of signatures are required from 15 counties to three-fifths of the counties (45). **We support this joint resolution.**

EXPANDED HIGHER EDUCATION SERVICE AREAS – STATE CHAMBER/AIA PRIORITY LEGISLATION

SB 659 by Sen. Jane English and Rep. Bruce Cozart *is on this afternoon's House Calendar*. It would allow state-supported, two-year institutions of higher education to market, offer courses or provide services to any individual who resides in the state, regardless of the service area. **We developed and support this bill.**

BILLS WE SUPPORT

WORKFORCE DEVELOPMENT – STATE CHAMBER/AIA PRIORITY LEGISLATION

SB 522 by Sen. Jane English *was approved by the House Friday by a vote of 88 to 0 and awaits concurrence by the Senate in a House amendment*. The bill seeks to increase industry involvement in workforce training by amending the duties of the Career Education and Workforce Development Board and renames it as the Office of Skills Development and the Career Education and Workforce Development Board. It also would authorize a voting member of the board to establish a subcommittee that is made

up of members relevant to the specific industry in order to better develop recommendations. Finally, it would add one representative from the Department of Human Services, the Department of Correction, and the Arkansas Economic Developers and Chamber of Commerce Executives (AEDCE) as nonvoting members.

We developed and support this bill.

LOW READING ASSESSMENT LEVELS

SB 603 by Sen. Alan Clark *passed in the House Friday 86 to 2 and awaits concurrence by the Senate in a House amendment.* It seeks to create personnel reporting requirements for schools based on low reading assessment levels. The amendment addresses concerns of the bill's critics. **We support this bill.**

PRE-JUDGMENT AND POST-JUDGMENT INTEREST RATES – STATE CHAMBER/AIA PRIORITY LEGISLATION

SB 544 by Sen. Missy Irvin, Rep. Doug House and others *awaits concurrence by the Senate on a House amendment.* It would change the pre-judgment and post-judgment interest rates from 10 percent per annum to the Federal Reserve primary credit rate in effect on the date on which the judgment is entered plus 2 percent. It would also set the rate for an action on a contract at the rate provided by the contract unless it is less than the above rate. **We support this bill.**

BLOCKCHAIN TECHNOLOGY

HB 1944 by Rep. Stephen Meeks and Sen. Joyce Elliott *is on this morning's agenda in the Senate Committee on Transportation, Technology and Legislative Affairs.* It provides that a signature, record or contract that is secured through blockchain technology is considered to be in electronic form and to be an electronic signature or record; defines a smart contract and declares smart contracts to be legally effective.

We support this bill.

ACTIVE BILLS WE OPPOSE

INDEPENDENT CONTRACTOR

HB 1850 by Rep. Austin McCollum and Sen. Bart Hester *is on this afternoon's Senate Calendar.* The bill seeks to establish the Empower Independent Contractors Act amending the definitions of "employee," "employer" and "employment status" on the basis of a 20-factor test that is similar to a 20-factor test used by the IRS to determine who is considered an independent contractor.

The stated goal of this bill is to create consistency in the definition of independent contractor. Unfortunately, the bill only addresses the independent contractor definitions in unemployment insurance and workers' compensation. There are additional independent contractor definitions, such as U.S. Department of Labor and EEOC and others, which will not be changed.

ACADEMIC FACILITIES WEALTH INDEX

SB 535 by Sen. Blake Johnson and Rep. Reginald Murdock *is on this afternoon's House Calendar.* It seeks to revise the method for calculating the Academic Facilities Wealth Index for fiscal years 2024-25 and subsequent years with regard to allocation of student millage rankings. **We oppose this bill.**

BILLS WE OPPOSE

Committee agendas are greatly reduced, and many committees will not meet anymore. Consequently, it appears the following bills we oppose will die in committee:

FREDOM OF INFORMATION ACT

SB 521 by Sen. Kim Hammer *awaits consideration in the Senate State Agencies Committee.* It seeks to amend the Freedom of Information Act and the definition of public records contained therein to exclude identifying information of donors, potential donors, non-donors or individual donor amounts to a private foundation that receives public funds. **We oppose this bill.**

UNEMPLOYMENT INSURANCE

SB 626 by Sen. Kim Hammer *awaits consideration in the Senate Public Health, Welfare and Labor Committee*. It seeks to increase the number of days that an employer has to respond to an initial claim of unemployment benefits before the right to respond is waived, from 10 to 15 days. This bill would create several program compliance issues that would be insurmountable. The current 10 days to respond is more than sufficient. Employers have options to gain more time if needed. **We oppose this bill.**

CONSUMER PROTECTION

HB 1704 Rep. Jimmy Gazaway *awaits consideration in the House Insurance and Commerce Committee*. It seeks to prohibit unconscionable terms in standard-form contracts, requiring the court to limit the application of terms it finds unconscionable and refuse to enforce the contract in whole or part. The bill also would designate unconscionable terms: that resolution of legal claims take place in an inconvenient venue, a waiver of an individual's right to asset claims or seek remedies provided by a federal statute, a waiver of an individual's right to seek punitive damages as provided by law, a provision that limits the time in which an action may be brought under the standard-form contract or that waives the statute of limitations, or a requirement that an individual pay fees and costs to bring a legal claim subsequently in excess of required fees and costs to bring a claim in state or federal court. Finally, it would exempt contracts to which one party is regulated by a regulatory body or officer under statutory state or federal authority, and a financial institution as defined under 23-45-102.

We oppose this bill.

INVASION OF PRIVACY

SB 230 by Sen. Kim Hammer *awaits consideration 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.**

BILLS OF INTEREST

REVENUE STABILIZATION

HB 1876 and SB 597 is the Revenue Stabilization Act (RSA) of 2019. *It will be considered this morning by the Joint Budget Committee*. Mike Wickline of the *Arkansas Democrat Gazette* summarized the RSA in Saturday's front page story in part as follows:

The proposal [RSA] — distributed to lawmakers Friday — would divide the projected general revenue into A, B and C categories, with \$5.61 billion going to Category A, \$115.6 million to Category B and \$14.7 million to Category C.

The state's top spending priorities are placed in Category A, with the other categories of lesser spending priority. Funding to Category B only flows after Category A has been fully funded, and funding to Category C only flows after Category B has been fully funded. The goal of the act is to prevent deficit spending. "A and B are fully funded, and C will depend on the revenue [from tax collections]," [Rep. Lane] Jean said.

Category B includes \$64.1 million for the human services department and \$30.8 million for general education in the Public School Fund. Category C is \$14.7 million for the state's Performance Fund, which was formerly called the Merit Adjustment Fund, and would be used to help fund salaries of state employees.

The proposed budget relies on using existing fund balances of \$25 million from the state's Performance Fund for performance-based raises and other raises for employees, Jean said. The Performance Fund will be replenished if the state collects enough tax revenue to fund Category C, he said. "There is a full commitment to merit pay raises and needs of staff," said [Governor Asa] Hutchinson.

The Revenue Stabilization Act would expand the budget for the Department of Human Services to \$1.73 billion, an increase of \$68.2 million. That includes a \$61.6 million increase, to \$1.31 billion, in the grants' category for the state's Medicaid program in fiscal 2020. It also includes \$2.5 million for the state's four crime stabilization units that are designated as a temporary place to send people with mental health emergencies.

This year, the state is paying 7 percent of the cost of the Medicaid expansion program called Arkansas Works, which provides health insurance coverage to about 235,000 low-income Arkansans. The state's share will increase to 10 percent next year under existing federal law.

In fiscal 2020, the state's share of the cost of the program is projected at \$177 million and the federal government's share at \$1.91 billion, according to a spokesman for the state Department of Finance and Administration. In fiscal 2019, the current fiscal year, the state's share has been projected at about \$135 million and the federal government's share at \$1.95 billion.

Hutchinson has been aiming to slow the growth of the traditional Medicaid program to pay for the state's increased share of funds for the Medicaid expansion program.

The Revenue Stabilization Act proposes a \$7.8 million increase to \$360.9 million for the Department of Correction, a \$5.5 million rise to the Department of Community Correction to \$93.4 million, and a \$5.2 million increase to \$71.6 million for the Arkansas State Police.

The state's two- and four-year colleges would get a \$4.1 million increase to \$749.7 million under the proposed general revenue budget as a result of a funding formula and increases for higher education entities not under the funding formula. The proposed general revenue budget also sets aside \$15.8 million in rainy-day funds.

GOVERNMENT TRANSFORMATION

HB 1763 by Rep. Andy Davis and Sen. Bart Hester *awaits a vote on the Senate floor.*

This is the Governor's plan to transform state government by reducing the number of agency direct reports from more than 40 to 15 new Departments that will be managed by a Secretary. Those 15 Secretaries will report directly to the Governor.

TAX APPEALS COMMISSION

SB 560 by Sen. Blake Johnson *awaits consideration by the House Revenue and Taxation Committee.* This is a concept we support. However, the bill needs some adjustments. The bill seeks to create the Tax Appeals Commission, separate and apart from the Department of Finance and Administration (DFA), which shall have jurisdiction over any administrative hearing by a taxpayer who seeks administrative relief from a DFA decision. It would require the Tax Appeals Commission to provide written decisions, including statements of facts, conclusions of the law, and orders to grant relief, invoke remedies and issue orders. It also would require decisions be public in either print or electronic form, allow the Tax Appeals Commission to establish a Small Claims Division, and allow the DFA to seek judicial relief from a decision made by the Tax Appeals Commission.

LARGE BUSINESS SECURITY BREACHES

HB 1943 by Rep. Fran Cavanaugh *is on this afternoon's Senate Calendar.* It would require a business to report a data security breach that affects more than 1,000 individuals to the Attorney General and add biometric data to the definition of personal information within the Personal Information Protection Act. It also:

- Provides that biometric data includes fingerprints, facial recognition analysis, retinal or iris scans, hand geometry, voiceprint analysis, and DNA.
- Provides that notification of a breach is not required if the business determines there is no reasonable likelihood that it will harm customers and provides a written notice to the Attorney General's office stating why.

PHARMACY BENEFIT MANAGEMENT

SB 520 by Sen. Kim Hammer *awaits consideration in the House Insurance and Commerce Committee.* This bill was amended to remove the dispensing fee.

TOBACCO TAX AND EARNED INCOME TAX CREDIT

SB 571 by Sen. Jim Hendren and Rep. Lee Johnson and 16 other Senators and 39 other House members. It seeks to reduce individual income taxes by creating an earned income tax credit and increased standard deduction to be offset by new taxes on cigarettes and e-cigarettes. The bill sets the effective date tax year beginning on January

FRIDAY AT THE CAPITOL

WORKERS' COMPENSATION

HB 1955 by Rep. Jack Ladyman and Sen. Dave Wallace *was defeated in the House Friday by a vote of 35 to 52.* The measure sought to create a priority lien for recovery of workers' compensation payments when a third party is responsible for harm done to a person covered by workers' compensation.

STATE CHAMBER TRACKED BILLS

New House bills filed Friday: 0 | Total House bills filed: 986
New Senate bills filed Friday: 1 | Total Senate bills filed: 684
New bills added to our tracking: 0 | Total tracked bills and resolutions: 551

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.

Legislative Message Center

House of Representatives: 501-682-6211
Senate: 501-682-2902

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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