



LOBBYING SUMMARY

87th General Assembly • 2009



87th Arkansas General Assembly
Arkansas State Chamber of Commerce / Associated Industries of Arkansas, Inc.

LOBBYING SUMMARY

Prior to the 2009 legislative session the State Chamber/AIA membership adopted as its top legislative priorities to lead the effort to pass a sales tax exemption for energy used in industry and manufacturing, to protect the education reforms passed in 2003-04, to protect the legal reforms enacted by Act 649 of 2003 and to protect the workers' compensation reforms enacted by Act 796 of 1993. We are pleased to say that we were successful in all of these areas.

With the economy slowing Governor Mike Beebe took a conservative approach to the state's budget and coordinated with legislative leaders to block tax exemption bills. However, the Governor maintained his priority to further extend the reduction in the sales tax on food. We worked with legislative leaders to plead our case for a further reduction in the sales tax paid by manufacturers on their energy costs and eventually prevailed. Only a couple other sales tax exemption bills became law.

There were a couple of bills filed that threatened to weaken the education reform measures we helped pass in 2003 but these bills were defeated in the Senate Education Committee.

We maintained a stand down agreement with the Trial Lawyers Association and therefore only a couple of bills were pushed that attempted to address tort reform. One was easily defeated and another bill to help the nursing home industry was negotiated with the trial lawyers and passed.

Throughout 2008 we had regular meetings with leaders of the AFL-CIO to discuss workers' compensation legislation. Our meetings resulted in an agreed package of legislation, which made only minor adjustments to Arkansas's workers' compensation laws that continue to work well for employers and employees.

Tax Issues

To accomplish our goal of achieving a sales tax exemption for energy used by manufacturers we balanced our analysis of this session's political environment with the desire of all manufacturing members of the State Chamber/AIA. First, we filed a bill that would have created an exemption for all fuels used by all manufacturers in Arkansas. However, it was very evident that such an exemption was not in the Governor's budget nor was there sufficient political will among legislators to pass such an exemption in 2009. We then shifted our focus to extending the 2% reduction we gained in 2007 on electricity and natural gas used by manufacturers in NAICS codes 31, 32 and 33. We worked closely with House Revenue and Taxation Committee Chairman John Lowrey, House Joint Budget Committee Chairman Bruce Maloch, Rep. David Dunn and Sen. Barbara Horn who negotiated with the Governor's office and helped build legislative support inside the Capitol. We also organized and managed a group of manufacturing lobbyists who worked to gain legislative support. Eventually we agreed upon a three-fourths percent reduction in the sales tax paid by manufacturers in NAICS codes 31-32-33 on their electricity and natural gas. Our agreement was contained in identical bills, HB 1624 and SB 875, which became Acts 691 and 695.

In addition to the sales tax reduction for manufacturing, we also produced a package of four additional tax bills and were able to pass two of them. Early in the session our Tax Committee developed a bill to clarify the exemption for machinery/equipment and tools/dies (SB 770), a taxpayer's bill of rights to address tax appeals (SB 769), a bill to extend the time period to carry net operating losses forward on income tax returns (HB 1911) and a bill to extend the time to claim rebates on local sales taxes paid in excess of old local caps (HB 1949).

All of these bills were held until the sales tax reduction for manufacturing was completed, which was in the latter weeks of the session. The state Department of Finance and Administration (DFA) was strongly opposed to SB 769 and SB 770. We met with DFA two or three times trying to resolve our differences but got no where until we obtained a Do Pass recommendation from the Senate Revenue and Taxation Committee on the tax payer bill of rights, SB 769 by Sen. Larry Teague and Rep. Keith Ingram. Then we were able to negotiate an agreement with DFA on SB 769 that changed the standard of proof in tax appeal cases from beyond a reasonable doubt to clear and convincing evidence. SB 769 is now Act 755. We also reached an agreement with DFA on SB 770 that clarifies the existing exemption on dies and molds. SB 770 is now Act 1208.

HB 1911 by Rep. Keith Ingram and Sen. Larry Teague was an attempt to make Arkansas's income tax laws more consistent with most other states and the federal government. Currently Arkansas only allows net operating losses (NOL) to be carried forward for five years while the federal government allows 20 years and over 80% of the states allow at least 10 years. Our bill would have extended the NOL period to 15 years and would not have impacted state revenue until fiscal year 2016. We were able to move the bill out of the House but it died the last week of the session in the Senate Revenue and Taxation Committee, which was killing all remaining tax bills that had a negative impact on state revenue.

DFA did not oppose our bill to extend the rebate time for businesses to recover local sales taxes paid above old local caps but mayors and county judges stopped HB 1949 by Rep. Davy Carter on the House floor.

Our Tax Committee also agreed to endorse HB 1060 by Rep. Tracy Pennartz that would have established an investment tax credit for the rehabilitation and development of central business improvement districts. It also failed to gain support from the Senate Revenue and Taxation Committee the last week of the session and was referred to interim study. Finally, in the last days of the session Rep. Ed Garner pushed HB 1947 out of the House but joined the many bills that failed in the last week to gain support from the Senate Revenue and Taxation Committee. This bill would have created The Arkansas Capital Gains Reduction Act of 2009. It was also referred to interim study. This is a tax issue that the State Chamber/AIA Tax Committee should look into prior to the next legislative session.

Workers' Compensation

HB 1362 by Rep. Mike Burris, Rep. Rick Green, Sen. Jerry Taylor and Sen. Joyce Elliott contained the agreement negotiated between the State Chamber/AIA and the AFL-CIO on workers' compensation issues. This bill simply exempted workers' individual disability policies that they paid for from the workers' compensation benefit offset requirements, clarified the responsibility for second injury claims, allowed certain claims to move from the Second Injury Trust Fund to the Death and Permanent Disability Trust Fund and strengthened the proof of insurance requirements for certain contractors. We ran into some unexpected opposition from legislators responding to concerns by small contractors and had some legislative drafting issues that complicated the contractor issue even more. However, we worked with the labor leaders and legislators as well as kept constant grass roots pressure on legislators to honor the negotiated agreement between the State Chamber/AIA and the AFL-CIO. The bill eventually passed and is now Act 327.

During the session, about a half dozen workers' compensation bills were filed in addition to our agreed bill. Four were held or withdrawn in honor of the agreement between the State Chamber/AIA and the AFL-CIO. The other two passed. One was a simple attempt to deal with volunteer firefighter's training, SB 872, which also expanded workers' compensation coverage to include volunteers who do not fight fires. The State Chamber/AIA and AFL-CIO testified against the bill in the Senate Committee but it was obvious the legislature did not see this bill having a strong impact on the overall workers' compensation system. It is now Act 808.

Rep. John Edwards filed HB 1403 the Uniform Emergency Volunteer Health Practitioners Act. This bill was designed to help Arkansas attract medical professionals to assist in the case of an extreme emergency. After the bill was filed the State Chamber/AIA and the AFL-CIO studied the bill and determined that it would provide a positive impact on the quality of life for all Arkansans and amended our agreement to include HB 1403, which is now Act 432. This bill will allow out-of-state medical providers to be declared state employees for the purpose of receiving Arkansas workers' compensation benefits if they are injured while working in Arkansas. The state of Arkansas's workers' compensation trust fund agreed to accept such claims, which facilitated management and labor's ability to include this bill in our agreement.

Energy Efficiency and Climate Change

As the bill filing deadline approached in early March most of the bills related to energy efficiency, climate change and other issues arising from the Global Warming Commission were filed. The State Chamber/AIA Task Force on Energy identified about 30 bills related to these issues but only seven required opposition. Of the bills that we were either neutral on or favored about 10 became law. Our opposition efforts focused on two bills HB 1851 by Rep. Kathy Webb and HB 1903 by Rep. Joan Cash. We worked with a large coalition of our industrial and utility members to stop these two bills. HB 1903 would have required electric utilities to achieve energy efficiency recommendations by 2013 but would have allowed the utilities to pass the cost of the programs on to rate payers. Our estimates were that these programs could cost Arkansas rate payers as much as \$72 million per year. HB 1851 would have required Arkansas's public utilities to purchase at least 2% of their energy from renewable electric generation facilities. Our information indicated that such purchases could cost between 20 cents and 50 cents per kilowatt hour while we currently pay about 7 cents per kilowatt hour. We opposed both of these bills because of their cost impact on our member businesses. HB 1903 was pulled down by the sponsor without a vote and HB 1851 did not receive approval from the House Insurance and Commerce Committee.

We also applied grass roots pressure and worked with a coalition of organizations and businesses to defeat HB 1968 by Rep. Kathy Webb. We feared this bill would have created a chilling effect upon people's willingness to serve the state through participation in boards and commissions that address the environment or any other issue by expanding the conflict of interest laws including an impact on family members and the addition of criminal enforcement. We believe that many people participate on boards and commissions because of their expertise and experience, and we could see this bill causing such expertise to go away.

Unemployment Insurance

Five members of the State Chamber/AIA Unemployment Insurance Committee including the co-chairs of the committee and the organizations' Executive Vice President participate in the ESD Advisory Council, which also includes five representatives of the AFL-

CIO and three consumers. This Advisory Council meets quarterly to discuss issues related to the state's unemployment insurance (UI) system and also negotiates legislative issues. The economic downturn had a dramatic impact on the state's Unemployment Insurance Benefit Trust Fund which became depleted in March. Department of Workforce Services staff estimates the Trust Fund will have a shortfall of at least a \$300 million in 2009 and likely again in 2010. The state started receiving federal cash advances in March that are interest free through 2010. The fund and its loans are the responsibility of businesses in Arkansas.

To meet the financial needs of the trust fund, we agreed to a \$2000 increase in the taxable wage base effective Jan. 1, 2010. Additionally, we secured labor's support when they agreed to allow discharges to be treated in the same manner as quits. The change in the wage base will cost employers about \$50 per employee per year on average and will generate about \$46 million in additional benefit funding per year. The change labor agreed to will save the fund about \$25 million each year.

The agreement supported by management and labor was filed as SB 429 by Sen. Tracy Steele and is now Act 802. This bill also makes changes to our UI system to qualify for federal stimulus dollars. Arkansas will receive \$59.9 million from the stimulus package, which will go into our trust fund to defray benefit costs associated with the required federal changes. The federal dollars are expected to cover the additional cost to our UI system from the changes for about six to eight years. The agreed bill also had six sections of technical corrections and changes.

Popular Vote for U.S. President

HB 1339 by Rep. Eddie Cooper and Sen. Terry Smith would have assigned Arkansas's presidential electors to the winner of the national popular vote rather than the winner of the popular vote in Arkansas. A similar bill had failed to move in past sessions but to our surprise this bill made it out of the House. We applied heavy grass roots pressure to this bill, which was never brought up for a vote in the Senate State Agencies and Governmental Affairs Committee. The State Chamber/AIA strongly opposes any attempt to remove Arkansas from the Electoral College and we will make our opposition a priority issue for future legislative sessions.

Healthcare

The State Chamber/AIA worked with the Arkansas Employers Healthcare Coalition (AECH) on a few healthcare related issues in this session. In the first half of the session the big issue was pharmacy benefit management (PBM). SB 460 by Sen. Percy Malone and HB 1601 by Rep. Allen Maxwell were bills that garnered our attention but were less troublesome than PBM legislation filed in previous sessions. Eventually a deal was struck on SB 460 which is now Act 769.

Late in the session our attention was drawn to three bills that would have mandated coverage for autism (SB 913), hearing aides (HB 1930), and reconstructive surgery (SB 940). We applied grass roots pressure to these bills while coordinating with members of the AEHC who were conducting in capitol lobbying and working with each bill's sponsor. Our opposition to all of these bills was based upon the fact that all would increase healthcare costs. The reconstructive surgery bill was never considered in committee, the hearing aide bill was amended from mandating coverage to being a mandated offering and the autism bill cleared the Senate but failed to gain approval from the House Insurance and Commerce Committee where the sponsor pulled the bill down and referred it to interim study.

Constitutional Amendments

Each legislative session the legislature can refer up to three proposed amendments to the state Constitution. During the 87th General Assembly there were about 25 proposals filed by legislators

and the State Chamber/AIA supported four, HJR 1003 by Rep. Bruce Maloch, HJR 1004 by Rep. Eddie Cheatham, HJR 1007 by House Speaker Robbie Wills and SJR 6 by Sen. Shane Broadway.

HJR 1007 would modify Amendment 82, the Super-project Amendment, to make it more broadly applicable to projects in more areas and allow Arkansas to better compete with neighboring states for new businesses. Specifically, it would remove the investment and employment limits (currently \$500 million in capital and 500 new employees), as well as the upper limit on the amount of bonds issued, for funding economic development projects. The Governor and the General Assembly would maintain control of which projects would be considered. HJR 1003 would remove the interest rate limits on bonds issued by governmental units and loans made to governmental units. This pro-economic development proposal would also help student loans. HJR 1004 would make the same changes in interest rate limits as HJR 1003. In addition, it would adjust interest rate limits to assist businesses that make consumer loans. SJR 6 was originally filed to make savings from performance-based efficiency projects revenue under the revenue bond statutes.

At their first joint meeting, the House and Senate State Agencies Committees voted to refer SJR 3 by Sen. Steve Faris to the 2010 General Election ballot. This would establish a state constitutional right to hunt and fish. Then, the committees voted to refer HJR 1007 to the ballot. Both of these joint resolutions were then adopted by the full House and Senate. Meanwhile there was quite a bit of work done by the legislature and many interests on the third and final ballot referral. Eventually the original proposals of HJR 1003, HJR 1004 and SJR 6 were all blended into HJR 1004, which received the approval of both chambers and will be on the November 2010 ballot. The State Chamber/AIA will form a coalition to support passage of HJR 1007 and HJR 1004.

Immigration

In the interim period between the 2007 and 2009 sessions there was much discussion about immigration legislation coming up in the 87th General Assembly. However, it turned out that there were fewer than a half dozen bills filed. The most notable immigration bill was HB 1093 by Rep. Bill Sample. We joined with the Farm Bureau and the Poultry Federation in reviewing this bill and found it to be similar to legislation adopted in Oklahoma that was strongly opposed by similar interests as ours. Representatives of these three organizations met with Rep. Sample to discuss our concerns and Rep. Sample was very receptive to our comments. The bill was never brought up for consideration. Our organizational position is that immigration is a federal issue.

Tort Reform and Education

As mentioned in the opening comments to this summary, we monitored all legislation to identify attempts to weaken the civil justice and education reforms we helped pass in 2003 and 2004. Only three bills required any effort and all three were defeated.

Animal Cruelty

Agriculture's strong impact on the Arkansas economy has put the State Chamber/AIA in the middle of battles over animal cruelty legislation in previous legislative sessions. However, prior to this session representatives of the Attorney General's office, the Farm Bureau, the Poultry Federation and multiple animal rights groups worked out differences and Attorney General Dustin McDaniel presented an agreed bill, SB 77 by Sen. Sue Madison and Rep. Pam Adcock, at a press conference the first week of the session. The State Chamber/AIA endorsed the agreement and participated in the press conference. SB 77 is now Act 33.

Trauma System

In our legislative agenda we indicated support for the development of a trauma system in Arkansas. We identified the bills that formed this system and kept our members apprised of their development and eventual passage. We also expressed an opinion directly to the members of the General Assembly about the three funding options they proposed. We opposed the use of insurance premium tax dollars to fund the system and were neutral on the tobacco tax increase and increases in certain fines.



Angela DeLille

Director of Governmental Affairs
Arkansas State Chamber of Commerce/
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Angela works with the Executive Vice President to enhance the business climate in Arkansas by representing the positions of the two

organizations before entities that include the following: committees, boards, various state agencies, the governor's office and the legislature. She helped the State Chamber/AIA establish a permanent presence in Northwest Arkansas by moving there in 2007. Angela works out of an office at the Fayetteville Chamber of Commerce.



Kenneth R. Hall

Executive Vice President
Arkansas State Chamber of Commerce/
Associated Industries of Arkansas

Kenneth R. Hall joined the Arkansas State Chamber of Commerce and Associated Industries of Arkansas as vice president for governmental affairs in September 1998. He was named Executive Vice President in May 2006. As chief lobbyist for the organizations, he represents the positions of the two organizations on issues related to, and focusing on, the enhancement of a quality business climate in Arkansas before various government entities, including the legislature, the governor's office, various state agencies, committees and boards and the Arkansas congressional delegation.

Kenny helps develop and implement State Chamber/AIA legislative strategies and is responsible for enlisting support for these goals. He coordinates the activities of the State Chamber/AIA legislative committees on workers' compensation, unemployment insurance & HR, health, education, and taxes.

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