



## Daily Legislative Update

91st General Assembly

Monday, February 6, 2017 – Day 29

### CAPITOL SCHEDULE

The House and Senate will convene at 1:30 p.m. this afternoon.

To view schedules for all of today's activities, committee agendas, bills and other information related to the Session, visit [www.arkleg.state.ar.us](http://www.arkleg.state.ar.us).

### STATE CHAMBER/AIA PRIORITY BILLS – \* PLEASE SUPPORT \* CIVIL JUSTICE REFORM

**SJR 8** by Sen. Missy Irvin, R-Mountain Home, 14 additional senators, and Rep. Bob Ballinger, R-Hindsville, and 52 additional representatives was filed Thursday. This Senate Joint Resolution seeks a legislative referral to the 2018 General Election ballot to provide Arkansans the opportunity to vote on tort reform that would set caps on non-economic and punitive damages in a manner like 33 other states, along with some other issues including a cap on attorney contingency fees.

The resolution was developed and is supported by a group of business associations organized by the State Chamber/AIA. The other organizations are: The Poultry Federation, the Arkansas Trucking Association, Arkansas Farm Bureau, Arkansas Grocers and Retail Merchants Association, Arkansas Health Care Association, Arkansas Medical Society, Arkansas Hospital Association and Arkansas Osteopathic Medical Association.

Several other groups, businesses and individuals have joined a letter supporting SJR 8 that will be delivered to the legislature. You can view this letter by clicking [here](#).

***If would like to join this letter, please let Holly Wilson know by emailing her at [hwilson@arkansasstatechamber.com](mailto:hwilson@arkansasstatechamber.com)***

Specifically, SJR 8 seeks to:

- Cap contingency fees for attorneys in civil actions at 33 1/3% of the net recovery
- Authorize the General Assembly to adjust the fee cap with 2/3 vote of each chamber

- Cap punitive damage awards in actions for wrongful death or injury to person or property at the greater of \$250,000 or 3 times the compensatory damage award for each claimant
- Create an exception to the cap for intentional conduct
- Authorize the General Assembly to increase – but not decrease – the cap with 2/3 vote of each house
- Cap non-economic damage awards in actions for wrongful death or injury to person or property at \$250,000 for each claimant, not to exceed \$500,000 to be shared among the beneficiaries of a decedent in a wrongful death action
- Authorize the General Assembly to increase – but not decrease – the cap with 2/3 vote of each house
- Authorize the General Assembly to adopt legislation establishing the process for adjusting the damage caps based on inflation/deflation
- Authorize the General Assembly to adopt legislation establishing the process for calculating the fee and setting penalties for violation
- Authorize the General Assembly, by 3/5 vote of each chamber, to 1) adopt rules of pleading, practice and procedure for the courts; 2) approve rules of pleading, practice and procedure prescribed by the Arkansas Supreme Court; and, 3) amend or repeal rules of pleading, practice and procedure prescribed by the Arkansas Supreme Court
- In the event of a conflict between a rule adopted by the General Assembly and a rule adopted by the Arkansas Supreme Court, the rule adopted by the General Assembly will control
- Preserve the right of trial by jury

The Legislature can refer up to three issues to the 2018 General Election Ballot. Legislative leaders have said they prefer referring only two, one from each legislative body. A simple majority vote in both chambers is necessary for an issue to be referred. The deadline for filing Joint Resolutions is this Wednesday. To date, the Senate has filed 10 Joint Resolutions and the House only one.

***Please join our support of SJR 8 being referred to the 2018 General Election Ballot!***

### **UNEMPLOYMENT INSURANCE**

**HB 1405** by Rep. Robin Lundstrum, R-Springdale, and Sen. Jim Hendren, R-Gravette, is one of our priority bills for this session. This bill seeks to lower the unemployment insurance taxes paid by employers by reducing the wage base from \$12,000 to \$10,000. It also makes changes in the weeks of coverage and a base measure in calculating benefits.

### **TODAY AT THE CAPITOL**

#### **EQUALIZING SALES TAXES FOR REMOTE SELLERS WITH IN-STATE SELLERS**

**SB 140** by Sen. Jake Files, R-Fort Smith, and Rep. Dan Douglas, R-Bentonville, would require certain high-volume merchants that sell products in Arkansas, but do not have a physical presence in Arkansas, to remit sales taxes to Arkansas. This bill is on this afternoon's Senate Calendar.

We **support** this bill to equalize the sales tax playing field between in-state brick and mortar sellers with out-of-state sellers.

### **NOTICE TO PURCHASERS FROM REMOTE SELLERS REGARDING SALES TAX LIABILITY**

**HB 1388** by Rep. Dan Douglas, R-Bentonville, and Sen. Jake Files, R-Fort Smith, is on this afternoon's House Calendar.

This bill would require a seller, that does not have a physical presence in this state and does not collect Arkansas sales or use tax on sales made to Arkansas residents, to notify Arkansas purchasers that tax is due on certain purchases made from the seller and that Arkansas requires the purchaser to file a sales or use tax return. It would also subject any seller who fails to comply with this section to a penalty of \$5 for each failure to provide notice. Sellers that do not have a physical presence in this state and do not collect Arkansas sales or use tax on sales made to Arkansas, would be required to file an annual report by March 1 or each year of sales to each purchaser with the Director of the Department of Finance and Administration showing the total amount paid by each Arkansas purchaser to the seller during the preceding calendar year. Those sellers that fail to file an annual report would be subject to a penalty of \$10 for each purchaser that should have been included in the report.

We **support** this bill, which is another effort to equalize the sales tax playing field between in-state brick and mortar sellers with out-of-state sellers.

### **HIGHER EDUCATION FUNDING**

**HB 1209** by Rep. Mark Lowery, R-Maumelle, and Sen. Eddie Joe Williams, R-Cabot, would require the Arkansas Higher Education Coordinating Board to adopt a productivity-based funding model for institutions of higher education and repeal the funding model currently in place, which is based on student enrollment. It is on this afternoon's Senate Calendar.

We **support** this bill.

### **ARKANSAS HISTORIC REHABILITATION CREDIT**

**SB 253** by Sen. Bill Sample, R-Hot Springs, and Rep. Joe Jett, R-Success, is on this afternoon's Senate Calendar. This bill seeks to increase the per-project cap for income-producing properties from \$125,000 in credits to \$400,000 in credits under the existing Arkansas Historic Rehabilitation Income Tax Credit Act for projects that start on or after July 1, 2017. The bill does not increase the current annual aggregate cap of \$4 million in credits. We **support** this bill.

### **THIS WEEK AT THE CAPITOL EMPLOYER PROTECTIONS**

**HB1126** by Rep. Charlie Collins, R-Fayetteville, would improve employers' standing in civil suits with employees by: a) amending the definition of employer to clarify that a natural person acting as a supervisor is not an employer, b) amending the hate crime section to eliminate claims arising out of employment relationship, and c) creating a one-year limitation period for discrimination, retaliation and interference claims.

We **support** this bill because two of its three provisions address issues that we planned to address in one of our priority bills. It awaits consideration in the Senate Judiciary Committee.

## LIMITATIONS ON PURCHASES WITH FOOD STAMPS

**HB 1035** by Rep. Mary Bentley, R-Perryville, and Sen. Cecile Bledsoe, R-Rogers, may be considered in the Senate Public Health, Welfare and Labor Committee on Wednesday.

We **oppose this bill** because of the burdens and costs that food retailers and manufacturers would incur to comply with this bill's requirements.

## RETAIL TAX PREPAYMENT

**HB 1253** by Rep. Jeff Wardlaw, R-Warren, seeks to repeal the requirement that retailers with average net monthly sales of more than \$200,000 prepay a portion of their sales tax twice monthly. This bill is on tomorrow's agenda in the House Revenue and Taxation Committee's agenda.

We **support** this bill.

## MARIJUANA LEGISLATION LEADERSHIP BILLS

Speaker of the House Jeremy Gillam, R-Judsonia, asked Rep. Doug House, R-North Little Rock, to lead an effort in the House to develop legislation to implement the Medical Marijuana Amendment. Senate President Jonathan Dismang, R-Searcy, asked Senators Greg Standridge, R-Russellville, and Missy Irvin, R-Mountain View, to do the same in the Senate.

Last Wednesday, seven bills that would regulate parts of the supply chain and make other changes to the state's medical marijuana amendment were discussed by the House Rules Committee and a vote is expected this Wednesday.

The amendment's language allows much of it to be altered with a two-thirds vote of the Legislature and in the process of implementation issues have been identified that need clarification. A statement made in the Committee by Rep. House was reported by *Talk Business & Politics*: "It's better to manage the new industry through regulation rather than legislation whenever possible because regulators can make changes quickly while legislators meet in regular session only every two years.

These are the bills awaiting consideration in the House Rules Committee:

**HB 1051** would allow cultivation facilities and dispensaries to contract with transporters, distributors and processors, which would be licensed by the Medical Marijuana Commission that was created by the amendment.

**HB 1049** would disallow most people with a felony record from having a dispensary license. The Medical Marijuana Commission would determine if an offense is a felony offense.

**HB 1057** would require cultivation facility and dispensary applicants and agents, along with caregivers, to obtain criminal background checks.

**HB 1298** would require that licenses for dispensaries and cultivation facilities be given to a natural person, not a corporation.

**HB 1369** would create an operations fund funded by sales tax revenues to pay for administrative costs. *Talk Business & Politics* reports that House said the bill would ensure the costs of the program are paid first. Joel DiPippa, an attorney with the Department of Finance and Administration's Office of Revenue Legal Counsel, said DFA expects the industry to produce \$40-\$45 million in gross revenues annually, producing \$2.5 million in sales taxes to pay for regulation costs that should be \$4-5 million a year.

**HB 1370** would authorize the Alcoholic Beverage Control Division to regulate advertising, marketing, packaging and promotion by dispensaries and cultivation facilities to ensure the marijuana products are not appealing to children.

**HB 1371** would amend the amendment to say that individuals owning 60 percent of the interest in a dispensary or cultivation facility must have been Arkansas residents for the previous seven years. The amendment currently says that 60 percent of the owners must be Arkansas residents, which would mean a facility would qualify even if that percentage of owners controlled very small parts of the company. The bill also says criminal background checks will be conducted on all owners, board members, and officers of the dispensary or cultivation facility.

### **STATE CHAMBER/AIA MARIJUANA LEGISLATION**

We have a bill about to be filed that seeks to protect employees from other employees that may be under the influence of marijuana and to clarify issues related to marijuana use for employers.

### **OTHER MARIJUANA LEGISLATION**

A handful of bills have been filed and there are rumors of other bills to provide additional regulations on marijuana.

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

The House has filed 442 bills.

The Senate has filed 274 bills.

We are tracking 184 bills.

Only a few bills were filed Friday and we only added two to our tracking. They will be included in tomorrow's list of new bills added to tracking.

Our entire list of tracked bills are posted on our website by category, which you can access by clicking [here](#).

### **LEGISLATIVE SESSION INFORMATION AND MESSAGE CENTER**

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

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