



Daily Legislative Update

91st General Assembly

Monday, February 27, 2017 – Day 50

CAPITOL SCHEDULE

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

Today is the last day to file Appropriation bills. Next Monday, March 5, is the deadline to file bills.

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.

*** * * Call to Action * * *** **STATE CHAMBER/AIA PRIORITY BILLS**

TO BE CONSIDERED TODAY

WORKERS COMPENSATION

HB 1586 by Rep. John Payton, R-Wilburn, and Sen. Jason Rapert, R-Conway, was not run Friday because a floor battle over an amendment to tort reform took a long time. **HB 1586** is on this afternoon's House Calendar.

HB 1586 will establish a cap on employers' indemnity costs at 450 weeks for death and permanent total disability injuries occurring on or after July 1, 2017.

A cap on employers' exposure is needed to replace a cap lost by closing the Death and Permanent Total Disability Trust Fund (Fund)

- Half of the states in America cap their death benefits
- A third cap their permanent total disability benefits
 - Arkansas capped these benefits at 450 weeks before the Death and Permanent Total Disability Trust Fund was created in 1973
- Total disability claimants are eligible for Social Security Disability (SSD)
 - These claimants can draw both Workers' Comp and SSD, but SSD offsets the amount of Workers' Comp benefits the claimant receives
 - When the 450 weeks expire, the claimant will continue to receive SSD, but without the offset.
- **Medical benefits are NOT capped**

- Survivor benefits payable to minor & disabled children will not be changed
- Arkansas was the last state to have a Fund
- The Fund paid the entire amount of the claim after employers paid a designated initial portion of the claim
 - Originally, the employers' portion was \$50,000, then increased to \$75,000 and later became 325 weeks times the maximum benefit
 - Currently equates to around \$215,000
- Without the Fund, employers' responsibility is limitless on these claims
 - Total claim costs can be \$500,000 to \$1 million
 - For insured employers, loss of the Fund will cause a premium increase
 - **For self-insured employers, loss of the Fund means their cost would increase from \$215,000 to unlimited**

Applying a 450-week cap to death and permanent total disability claims will keep employer premium costs practically the same and the vast majority of claimants will continue to receive a similar payment.

PLEASE ASK YOUR REPRESENTATIVE TO VOTE FOR HB 1586

CIVIL JUSTICE REFORM

SJR 8 by Sen. Missy Irvin, R-Mountain View, 14 additional senators and Rep. Bob Ballinger, R-Hindsville, and 52 additional representatives was amended and approved by the House State Agencies Committee Thursday afternoon. The Amendment was adopted on the House floor Friday morning, followed by an intense debate over an attempt to amend the bill in a way different than the sponsor and supporters desired.

Talk Business & Politics has a story this morning about Friday's debate:

<http://talkbusiness.net/2017/02/tort-reform-change-reveals-split-in-house-vote-sent-for-monday/>

This Joint Resolution seeks to give Arkansas voters the chance to improve the state's civil-justice system, reduce frivolous or meritless lawsuits, and keep skilled professionals in the state. It also sets rules for attorney's contingency fees, sets caps on economic and non-economic damages, and clarifies rule-making authority between the legislative and judicial branches. The amendment added Friday doubles the amount of the caps on non-economic and punitive damages and changes the rule-making authority between the legislative and judicial branches.

You can read a letter of support and see its co-signers by clicking [here](#).

If you would like to join this letter, please email Holly Wilson at hwilson@arkansasstatechamber.com.

You can read the full text of **SJR 8**, with the changes engrossed into the language by clicking [here](#).

We urge everyone to contact your Representatives and ask them to vote FOR SJR 8!!!

REPAIR AND REPLACEMENT PARTS EXEMPTION FOR MANUFACTURERS

SB 362 by Sen. Lance Eads, R-Springdale, and Rep. Andy Davis, R-Little Rock, along with eight Senators and 13 Representative co-sponsors is on this afternoon's Senate Calendar for consideration.

This bill creates a sales tax exemption for manufacturers on their repair and replacement parts by phasing out the entire sales tax by 1 percent a year until complete, along with the Constitutional taxes, by June 30, 2022. Manufacturers must continue to seek a rebate until the tax is completely removed. To mitigate revenue impact to the state, it will also phase out the InvestArk incentive.

This bill was developed by the State Chamber/AIA with outstanding cooperation from the Governor and leadership at the Arkansas Department of Finance and Administration.

Please ask your Senator to SUPPORT SB 362

STUDENT READING

SB 328 by Sen. Alan Clark, R-Lonsdale, received a Do Pass recommendation from the House Education Committee yesterday and is on this afternoon's House Calendar.

We **support** this bill that would require the State Board of Education to test applicants for first-time teacher licensure for elementary education K-6 and for special education K-12 in subject matter content, pedagogy, and knowledge of beginning reading instruction. We added this bill to our Priority list because it supports efforts to improve student reading, particularly to promote the standard that every student should be able to read by the end of the third grade.

PRIORITY BILLS PENDING

UNEMPLOYMENT INSURANCE

HB 1405 by Rep. Robin Lundstrum, R-Elm Springs, and Sen. Jim Hendren, R-Gravette, is being amended to remove a provision to lower the benefit calculation from 1/26th to 1/30th. It should be considered in the Senate Public Health, Welfare and Labor Committee on Wednesday.

This priority bill seeks to lower the unemployment insurance taxes paid by employers by reducing the wage base from \$12,000 to \$10,000. This change will save the business community approximately \$50 million annually. The bill also seeks to reduce the weeks of UI benefits from five months to four months.

Please ask your Senator to vote FOR HB 1405!

EMPLOYER CLARITY REGARDING MARIJUANA

HB 1460 by Rep. Carlton Wing, R-North Little Rock, and Sen. Missy Irvin, R-Mountain View, should be considered in the House Rules Committee Wednesday.

This bill was developed for us by a group of lawyers that includes:

- Jennifer Chang and Bruce Cross at Cross Gunter Witherspoon & Galchus
- Wayne Young at Friday, Eldridge & Clark
- Jim Robertson at the Barber Firm

Justin Allen and Erika Gee from Wright Lindsey Jennings, Brian Vandiver from Cox, Sterling, McClure & Vandiver and Steve Schulte also contributed to this effort. These lawyers did this work as volunteers from our Unemployment Insurance/Human Resource Committee where the idea for this bill began. We very much appreciate the efforts of all the lawyers that have worked on this bill.

This bill seeks to create new definitions or modify existing definitions for employers in matters related to the use of marijuana. These definitions include:

- Employer
- Under the Influence
- Current use of marijuana
- Good faith belief
- Safety-sensitive position
- Clarify that a “written certification” for marijuana is not a medical prescription

Please ask your State Representative to vote FOR HB 1460!

SCHOOL BOARD ELECTION DATES

HB 1621 by Rep. Mark Lowery, R-Maumelle, and Sen. Jane English, R-North Little Rock, seeks to set annual school elections in each school district of the state on: (A) The date of the preferential primary election in even- numbered years and the date that would be designated as the preferential primary election in odd-numbered years if a general election was held in the odd-numbered year; or (B) the first Tuesday following the first Monday in November of each year.

This bill was developed to:

- Substantially increase voter turnout by holding elections when most voters vote
- Save taxpayer dollars in even numbered years by combining school elections with general or preferential primary elections
- Allow local districts to continue to choose dates for millage elections
- Allow local districts to choose between preferential primary and general election for school board elections
- Allow local districts to continue holding isolated, stand-alone elections in odd-numbered years
- Alternate candidates running in preferential primary/general elections and isolated, stand-alone elections

Please support this bill.

BILLS WE SUPPORT

WINE SALES IN GROCERY STORES

SB 284 by Sen. Bart Hester, R-Cave Springs, Sen. Linda Chesterfield, D-Little Rock, and Rep. Jon Eubanks, R-Paris, is on this afternoon’s House Calendar. The bill would permit grocery stores to sell wine for off-premises consumption. This bill does not change existing laws regarding the ability to sell alcohol in any location in the state. We join our member grocers and retail merchants in **support** of this bill.

EMPLOYER PAYROLL PAYMENTS

HB 1609 by Rep. Clarke Tucker, D-Little Rock, was approved Friday by the House on a vote of 90-0. Previously we incorrectly listed this bill as “opposed,” which was an error. We **SUPPORT** this bill. Apologies to Rep. Tucker for the error.

This bill is designed to provide a clarification in the law that will be beneficial to employers. Currently, the law requires employers to pay employees semimonthly. The intent of that law was to ensure that employees are paid at least twice per month. The problem is that the language reads that employers are required to pay employees exactly twice per month. Accordingly, employers who pay employees biweekly, and therefore have two months per year with three pay periods, are in violation of the law for those two months each year. Further, employers who pay employees on a weekly basis are in violation of the law twelve months per year.

While the current law is not widely enforced, the legislation is intended to provide clarity and security for employers who currently pay more than twice per month so that they have certainty that they are not in violation of the law, and no rogue investigator will be able to fine them or otherwise penalize them for going beyond what the law intended.

ARKANSAS HISTORIC REHABILITATION CREDIT

SB 253 by Sen. Bill Sample, R-Hot Springs, and Rep. Joe Jett, R-Success, was approved by the full House last week and has returned to the Senate Revenue and Taxation Committee for consideration of an amendment added in the House.

This bill will 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.

COLLECTING SALES TAXES FROM REMOTE SELLERS

HB 1388 by Rep. Dan Douglas, R-Bentonville, and Sen. Jake Files, R-Fort Smith, awaits consideration in the Senate. It would require out-of-state sellers to provide notice to Arkansas purchasers that taxes are owed, provide information regarding purchases, and apply fines for failure to implement the requirements of this bill.

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. It remains on the House Revenue and Taxation Committee agenda.

We **support** these bills that would equalize the sales tax playing field between in-state brick and mortar sellers and out-of-state sellers.

ECONOMICS EDUCATION

HB 1442, by Rep. Andy Davis, R-Little Rock, awaits consideration in the Senate Education Committee. The bill seeks to amend the personal finance curriculum standard to include job seeking skills, soft job skills and employment benefits. It also would require high school students to earn a course credit under this curriculum for graduation. We **support** this bill.

BILLS WE OPPOSE **LICENSING**

HB 1551 by Rep. Richard Womack, R-Arkadelphia, was defeated last week in the House Public Health, Welfare and Labor Committee, but it could be considered again. Multiple legal opinions are being prepared to clarify the concerns of the many groups that are opposed.

We believe this bill would significantly limit the State's ability to enforce occupational licensing standards and allow individuals to perform skilled services without any training or other certification requirements. This would create unfair competition between businesses that abide by licensing requirements with businesses that don't hire licensed people or unlicensed individuals.

There are approximately 11 groups that appear to be exempted, but the view of many groups that join our opposition is that their licensing rules are still at risk. The first legal opinion received agrees with this concern.

We join many business types and groups that **OPPOSE** this bill.

EMPLOYER PAYMENTS

HB 1624 by Rep. Greg Leding, D-Fayetteville, would establish that overdue wage payments do not release an employee's other claims to balances due to them by employers and amends the processes governing disputes over wages.

EMINENT DOMAIN

HB 1444, by Rep. Bob Ballinger, R-Hindsville; this 82-page bill seeks to make changes to the state's eminent domain procedures. Specifically, it would:

- Require an entity exercising eminent domain to condemn private property to file a complaint for condemnation of the property in the circuit court of the county in which the private property is located.
- Establish requirements for the complaint of condemnation.
- Require an entity exercising eminent domain to deposit with the circuit clerk the amount of money estimated by the entity to be just compensation for the private property to be condemned.
- Require the circuit court to enter an order with the circuit clerk that evidences the right of the entity to the title to the property within five business days after the title vests.
- Provide that neither this subsection nor the Rules of Civil Procedure limits the right of an entity to immediately receive vested title upon the deposit of the estimated amount of just compensation or an order evidencing the entity's right to the title.
- Establish a circuit court's duties in processing a complaint of condemnation.
- Revises code sections concerning eminent domain to reflect this section.

This bill awaits consideration in the House Judiciary Committee.

We encourage all businesses with an interest in eminent domain to look at this bill and let us know your thoughts. We have received multiple reports of concerns about the bill.

BILLS OF INTEREST **CONSTITUTIONAL AMENDMENTS**

HJR 1016 by Rep. Robin Lundstrum, R-Elm Springs, awaits consideration in the Senate State Agencies Committee. It would require voters to present a photo identification at their polling place or when voting absentee. The Legislature would establish by law the types of photo identification that would qualify. The state would be required to issue photographic identification for free to voters who do not have them. Voters without an identification would be able to cast a provisional ballot. This resolution has 37 co-sponsors in the House in addition to Rep. Lundstrum and 12 co-sponsors in the Senate.

HJR 1003 by Speaker Jeremy Gillam, R-Judsonia, awaits consideration in the House State Agencies Committee. It may have enough support to become a third legislative referral to the 2018 General Election ballot.

This amendment would require legislatively referred amendments to have the support of a two-thirds vote of the House and the Senate, instead of the current simple majority vote in both chambers. All amendments would require a three-fifths majority of voters, rather than the current simple majority. The attorney general would be required to review legislatively referred amendments, which currently doesn't happen. Constitutional amendments could not bestow privileges on specific individuals and business entities, as has been attempted in several recent voter-initiated amendments, especially as they relate to casino and gambling amendments.

STATE BOARDS, COMMISSIONS AND COMMITTEES

SB 341 by Sen. Lance Eads, R-Springdale, nine additional senators and 14 representatives is on today's Senate Agenda to adopt an amendment. It seeks to make various revisions to the composition and membership of numerous stage boards, committees, commissions, and other administrative bodies, including

- Repealing the Commission for Coordination of Educational Efforts
- Repealing the Distance Learning Coordinating Council
- Amending the membership of the Apprenticeship Coordinating Steering Committee
- Amending the membership of the Coalition for Juvenile Justice Board
- Repealing the Museum of Natural Resources Advisory Committee
- Repealing the Commission on Information Age Communities Act
- Repealing the Scenic Resources Preservation Coordinating Committee
- Making members of the Board of Examiners in Counseling subject to Senate confirmation
- Repealing the Board of Health Education
- Various other changes

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

The Senate has filed 437 bills.
The House has filed 688 bills.
We are tracking 333 bills.

The most recent list of bills added to our tracking can be viewed [here](#).

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.

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