



Daily Legislative Update

91st General Assembly

Wednesday, March 1, 2017 – Day 52

CAPITOL SCHEDULE

The House and Senate will both 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.

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

TODAY

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 received a Do Pass as Amended by the Senate State Agencies Committee yesterday and is on this afternoon's Senate Calendar.

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 caps to be established in Arkansas on non-economic and punitive damages and changes the rule-making authority between the legislative and judicial branches. Arkansas is one of 17 states that currently has no caps on punitive or non-economic damages. The punitive damage cap we helped get passed in 2003, was overturned by the Supreme Court.

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 Senator and ask them to vote FOR SJR 8!!!

EMPLOYER CLARITY REGARDING MARIJUANA

HB 1460 by Rep. Carlton Wing, R-North Little Rock, and Sen. Missy Irvin, R-Mountain View, is on today's agenda in the House Rules Committee.

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

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 who have worked on this bill.

Please ask your State Representative to vote FOR HB 1460!

YESTERDAY STUDENT READING

SB 328 by Sen. Alan Clark, R-Lonsdale, was approved in the House yesterday, by a vote of 80 to 3.

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 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 tomorrow's agenda in the House Revenue and Taxation Committee.

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 your Representative to SUPPORT SB 362

WORKERS COMPENSATION

HB 1586 by Rep. John Payton, R-Wilburn, and Sen. Jason Rapert, R-Conway, is on the agenda in the Senate Health, Welfare and Labor Committee for a meeting after the Senate adjourns tomorrow afternoon.

This bill 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). Medical benefits are NOT capped by this bill.

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.

The Fund absorbs the entire amount of the claim after employers pay a designated initial portion of the claim, which currently is \$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.

PLEASE ASK YOUR SENATOR VOTE FOR HB 1586

UNEMPLOYMENT INSURANCE

HB 1405 by Rep. Robin Lundstrum, R-Elm Springs, and Sen. Jim Hendren, R-Gravette, is on this morning's agenda in the Senate Public Health, Welfare and Labor Committee as well as the agenda for the Committee's meeting after the Senate adjourns tomorrow afternoon.

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!

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 elections 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

This bill will be considered in the House Education Committee on Tuesday, March 7.

SB 504 by *Sen. Jane English, R-North Little Rock*, was filed yesterday. It would set the school board elections at the General Election date in November.

Please support these bills.

DECEPTIVE TRADE

HB 1742 by *Rep. Laurie Rushing, R-Hot Springs, and Sen. Bart Hester, R-Cave Springs*, would require a claimant in civil cases, related to deceptive trade practices, to demonstrate actual financial loss in order to prevail. It also defines actual financial loss to mean: an ascertainable amount of money that is equal to the difference between the amount paid by a person for goods or services and the actual market value of the good or services provided.

Please support this bill

HIGHWAY FUNDING

HB 1726 and HB 1727, by *Rep. Dan Douglas, R-Bentonville*, are a plan for highway funding, filed yesterday, which **we support**.

HB 1726 would authorize the State Highway Commission to issue bonds if such authority is approved by voters in a one-time statewide election. It would: a) require the issued bonds to finance the maintenance or construction of state highways, b) authorize the election to be in conjunction with a general election or to be a special election and c) establish rules governing the specific nature of bonds issued by the Commission.

HB 1727 would establish additional sales taxes on wholesale motor fuel and wholesale distillate special motor fuel. It would make the levy of such taxes dependent on the results of an election to approve the issuance of highway maintenance and construction improvement bonds. It would also require the tax, if levied as a result of the election, to

be an amount equal to the annually adjusted 6.5 percent of the average monthly wholesale price over the previous year.

Please SUPPORT these bills!

DOUBLE DAMAGES

HB 1737 by Rep. *Charlie Collins, R-Fayetteville*, would prohibit damages awarded in discrimination and retaliation cases under the Arkansas Civil Rights Act of 1993, from duplicating or increasing any award for damages over those allowed for by any other state or federal law as the federal law existed on January 1, 2017. It would also establish that individual employees, agents of employers or employees of an employer's agent are not liable for violation found to have been committed by employers.

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*, after failing to pass by three votes on Monday, will be reconsidered this afternoon on the House floor.

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.

PROPERTY PROTECTION ACT

HB 1665, by Rep. *DeAnn Vaught, R-Horatio*, 23 additional Representatives and Sen. *Gary Stubblefield, R-Branch*, received a Do Pass recommendation from the House Judiciary Committee yesterday morning and is on this afternoon's House Calendar.

It will strengthen employers' defenses against common forms of corporate espionage by prohibiting any person from placing a camera or electronic surveillance device on the employer's premises without permission. The bill also prohibits employees from capturing or removing the employer's data, papers or records, or from recording sounds or images.

There were several questions by committee members, so the bill is being evaluated for changes that would answer the questions and provide more support when the bill is considered by the full House. An amendment would have to be considered by the Committee first.

This bill is supported by the State Chamber/AIA, Arkansas Farm Bureau, Agricultural Council of Arkansas, Farm Credit Services of Arkansas and the U.S. Chamber of Commerce. It is on today's agenda in the House Judiciary Committee.

EMPLOYER PAYROLL PAYMENTS

HB 1609 by Rep. *Clarke Tucker, D-Little Rock*, is on today's agenda in the Senate Public Health, Welfare and Labor Committee as well as the meeting set for after the Senate adjourns tomorrow. We **SUPPORT** this bill.

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 implies 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 12 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.

ECONOMICS EDUCATION

HB 1442, by Rep. Andy Davis, R-Little Rock, is on this morning's agenda 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.

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, awaits reconsideration in the House Revenue and Taxation Committee. It 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.

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 is on this morning's agenda in the Senate Revenue and Taxation Committee.

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.

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. It has been placed on the Deferred

List in the Committee, which will require a two-thirds vote of the Committee to bring it back up for consideration.

We have multiple legal opinions that have been 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.

GENDER EQUITY

HB 1021, by Rep. Fred Love, D-Little Rock, is set as a Special Order of Business in the House Public Health, Welfare and Labor Committee on March 14.

This bill would authorize an employee to file a gender discrimination complaint with the Labor Department, without retaliation by the employer. It would require the Labor Department to investigate and supervise the payment of unpaid salaries or prosecute a civil action.

We visited with Rep. Love about this bill immediately after it was filed early in the Session. We also had the bill reviewed by an employment attorney. We could not find a way to amend the bill in a way in which employers would be comfortable. Consequently, we **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. This bill has been placed on the Deferred List in the House Judiciary Committee.

BILLS OF INTEREST

CONSTITUTIONAL AMENDMENTS

HJR 1016 by Rep. Robin Lundstrum, R-Elm Springs, 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.

Talk Business & Politics is reporting this Resolution was approved by the Senate State Agencies committee yesterday morning.

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 does not occur. 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 519 bills.

The House has filed 748 bills.

We are tracking 365 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.

House of Representatives: 501-682-6211

Senate: 501-682-2902

State Chamber/AIA Governmental Affairs Team:

Randy Zook, President/CEO:

rzook@arkansasstatechamber.com

Kenny Hall, Executive Vice President:

khall@arkansasstatechamber.com

Andrew Parker, Director of Governmental Affairs:

aparker@arkansasstatechamber.com

Holly Wilson, Director of Governmental Affairs:

hwilson@arkansasstatechamber.com

Toni Bahn, Director of Governmental Affairs:

tbahn@arkansasstatechamber.com

State Chamber/AIA phone: (501) 372-2222

State Chamber/AIA web site: www.arkansasstatechamber.com

To unsubscribe to *Daily Legislative Updates*, please e-mail Deb Mathis at dmathis@arkansasstatechamber.com and write "unsubscribe DLU" in the subject box.

The Daily Legislative Update is written by Kenny Hall and edited and distributed by Jeff Thatcher.



1200 W. Capitol Ave., P.O. Box 3645
Little Rock, AR 72203-3645

501-372-2222
FAX 372-2722
