



## Daily Legislative Update

91st General Assembly

Thursday, March 2, 2017 – Day 53

### CAPITOL SCHEDULE

The House and Senate both convened 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 - TODAY

#### 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 morning'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.

**Please ask your Representative to SUPPORT SB 362**

### STATE CHAMBER/AIA PRIORITY BILLS - YESTERDAY

#### 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, had the House amendment concurred in by the Senate with 20 yes votes yesterday afternoon.

**Please be sure to say thank you, to any Senator you asked to support SJR 8**

### EMPLOYER CLARITY REGARDING MARIJUANA

**HB 1460** by Rep. Carlton Wing, R-North Little Rock, and Sen. Missy Irvin, R-Mountain View, received a Do Pass from the House Rules Committee. A third amendment to rectify with federal law was adopted in Committee and will be formally adopted in the House today and the bill will likely be on the floor Monday for consideration by the full

House. This bill will require a two-thirds (67) majority vote. **Please ask your Representative to vote FOR HB 1460.**

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

### **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, was approved by the House yesterday by a vote of 53 yes, 34 no, 4 present and 9 not voting. It will go back to the Senate for concurrence in the House amendment.

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.

### **ACTION TODAY ON BILLS WE SUPPORT**

#### **ECONOMIC DEVELOPMENT**

**HB 1732** by Rep. Matthew Shepherd, R-El Dorado, and Sen. Lance Eads, R-Springdale, amends the Local Government Bond Act of 1985, approved by Amendment 62, to reflect language in Amendment 97 that authorizes local governments to fund economic development projects, land and infrastructure for industries. This bill was filed Tuesday, received a Do Pass recommendation in the House City, County & Local Committee yesterday and is on this afternoon’s House Calendar.

#### **ECONOMICS EDUCATION**

**HB 1442**, by Rep. Andy Davis, R-Little Rock, is on this afternoon’s Senate Calendar. 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.

#### **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 afternoon’s Senate Calendar for concurrence in a House amendment.

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.

### **STATE CHAMBER/AIA PRIORITY BILLS - PENDING**

#### **WORKERS COMPENSATION**

**HB 1586** by Rep. John Payton, R-Wilburn, and Sen. Jason Rapert, R-Conway, was not considered yesterday by the Senate Health, Welfare and Labor Committee. It will likely be next week before it is considered by the committee. **Please ask your senator to VOTE FOR HB 1586**

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.

### **UNEMPLOYMENT INSURANCE**

**HB 1405** by Rep. Robin Lundstrum, R-Elm Springs, and Sen. Jim Hendren, R-Gravette, was not considered in the Senate Public Health, Welfare and Labor Committee yesterday. It may be next week before its considered. **Please ask your Senator to VOTE FOR HB 1405!**

This 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.

### **PROPERTY TAXPAYER PROTECTIONS**

**HB 1772** by Rep. Joe Jett, R-Success, and Sen. Jake Files, R-Fort Smith, and 21 additional members, was filed yesterday. It is a bill developed by the State Chamber/AIA Tax Committee. The bill seeks to amend various aspects of property tax administration and the adjustment and appeal of assessments through county equalization boards.

- Allows for the deadline for filing a petition for review of a property tax assessment to be extended by fifteen days by order of the appropriate commission for good cause shown.
- Requires a county assessor to present to the county equalization board any evidence that the county assessor's office or a contracted appraisal company considered when determining the valuation of the property that is the subject of the hearing.
- Requires the Director of the Assessment Coordination Department to approve curricula and provide materials for use in training and educating member of county equalization boards, and supervise a comprehensive course for training and educating members of county equalization boards and issue certificates indicating course completion among other duties

## **SCHOOL BOARD ELECTION DATES**

**HB 1621** by Rep. Mark Lowery, R-Maumelle, and Sen. Jane English, R-North Little Rock, is a bill **we support** that 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 will be considered in the House Education Committee next Tuesday.

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

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

## **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. This bill awaits consideration in the House Insurance & Commerce Committee. **We support this bill**

## **HIGHWAY FUNDING**

**HB 1726 and HB 1727**, by Rep. Dan Douglas, R-Bentonville, are a highway funding plan that **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 apply the existing state sales tax to the wholesale price of motor fuel and wholesale distillate special motor fuel. It would make the levy of such taxes dependent upon 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.

## **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 employer or employees of an employer's agent are not liable for violation found to have been committed by employers. It awaits consideration in the House Judiciary Committee. **We SUPPORT this bill!**

## **BILLS WE SUPPORT**

### **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 Tuesday morning, but will be referred back to the Committee for an amendment to address multiple questions raised by Committee members.

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.

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*, awaits consideration in the Senate Public Health, Welfare and Labor Committee and an amendment is under consideration. 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 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.

### **ABOVE GROUND STORAGE TANKS**

**HB 1721** by Rep. *Andy Davis, R-Little Rock* and Sen. *John Cooper, R-Jonesboro*, was filed Tuesday and is a bill submitted by the Arkansas Environmental Federation, our partner in all things environmental. This bill would authorize reimbursement for corrective actions paid by the owner of an unregistered above ground petroleum storage tank if the owner voluntarily registers the tank. **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.

## **BILLS WE OPPOSE LICENSING**

**HB 1551** by Rep. Richard Womack, R-Arkadelphia, is on the Deferred List in the Public Health, Welfare and Labor Committee.

We have multiple legal opinions 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 right 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 and 49 others, 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 bill was approved by the Senate State Agencies Committee, then was placed on the Senate Calendar but passed over and then was referred back to the Committee.

**HJR 1003** by Speaker Jeremy Gillam, R-Judsonia, awaits consideration in the House State Agencies Committee. 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.

### **GUNS IN EMPLOYER PARKING LOTS**

**SB 37** by Sen. Alan Clark, R-Lonsdale, received a Do Pass recommendation from the Senate Judiciary Committee yesterday. This bill addresses the rights of employees to keep a firearm in their vehicle on business property. This bill is on today's Senate Calendar. We have been working with Sen. Clark and Sen. Hickey, who has a similar bill, **SB 33**. We expect this bill to be held and not considered today.

### **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 531 bills.  
The House has filed 802 bills.  
We are tracking 391 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**

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