



Daily Legislative Update

91st General Assembly

Wednesday, March 8, 2017 – Day 59

CAPITOL SCHEDULE

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

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.

STATE CHAMBER/AIA PRIORITY BILLS – WITH ACTION TODAY UNEMPLOYMENT INSURANCE

HB 1405 by Rep. Robin Lundstrum, R-Elm Springs, and Sen. Jim Hendren, R-Gravette, is expected to be considered in the Senate Public Health, Welfare and Labor Committee this morning.

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.

Please ask your Senator to VOTE FOR HB 1405!

PROPERTY TAXPAYER PROTECTIONS

HB 1772 by Rep. Joe Jett, R-Success, and Sen. Jake Files, R-Fort Smith, and 21 additional members received a Do Pass recommendation yesterday morning by the House Revenue and Taxation Committee and is on this afternoon's House Calendar.

This bill was developed by the State Chamber/AIA Tax Committee. It 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 15 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, to supervise a comprehensive course for training and educating members of

county equalization boards, and to issue certificates indicating course completion among other duties.

Please ask your Representative to vote FOR HB 1772

DECEPTIVE TRADE

HB 1742 by Rep. Laurie Rushing, R-Hot Springs, and Sen. Bart Hester, R-Cave Springs; this bill is expected to be considered in the House Insurance & Commerce Committee this morning.

This bill 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 ask your Representative to support HB 1742**

EMPLOYER CLARITY REGARDING MARIJUANA

HB 1460 by Rep. Carlton Wing, R-North Little Rock, and Sen. Missy Irvin, R-Mountain View, is expected to be considered this afternoon in the Senate Public Health, Welfare and Labor Committee. This bill required a two-thirds (67) majority vote. **This is an important bill that we had developed and support to protect and maintain the safety of the workplace. Please ask your Senator 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 passed over in the Senate yesterday but remains on the Senate Calendar to concur in House amendments.

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.

STATE CHAMBER/AIA PRIORITY BILLS – WITH ACTION YESTERDAY 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 was approved by the full House yesterday by a vote of 85 to 2.

Please say thank you to your Representatives for supporting SB 362

STATE CHAMBER/AIA PRIORITY BILLS – ACTION PENDING
WORKERS COMPENSATION

HB 1586 by Rep. John Payton, R-Wilburn, and Sen. Jason Rapert, R-Conway, awaits consideration in the Senate Health, Welfare and Labor 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.

The Fund paid the entire amount of the claim after employers paid 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.

SB 682 and SB 760 by Sen. David Sanders, R-Little Rock, are shell bills we had filed in case we are not able to get **HB 1586** passed.

PROPERTY PROTECTION ACT

HB 1665, by Rep. DeAnn Vaught, R-Horatio, 23 additional Representatives and Sen. Gary Stubblefield, R-Branch, is on tomorrow's agenda in the Senate Judiciary Committee.

This bill 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 being strongly opposed by animal rights groups.

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. It is drawing some heavy opposition, so **be sure to ask your Senator to SUPPORT HB 1665.**

SCHOOL BOARD ELECTION DATES

HB 1621 by Rep. Mark Lowery, R-Maumelle, and Sen. Jane English, R-North Little Rock, will be considered tomorrow in the House Education Committee.

This is an issue we've worked on for many years. This bill 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

Please ask your Representative to support HB 1621

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

HIGHWAY FUNDING

HB 1726 and HB 1727, by Rep. Dan Douglas, R-Bentonville, is 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 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.

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. It may be considered in the House Judiciary Committee this week. **We SUPPORT this bill!**

ECONOMIC DEVELOPMENT – AMENDMENT 97 IMPLIMENTATION BILLS

SB 581 by Sen. Jim Hendren, R-Gravette, Sen. Missy Irvin, R-Mountain View, Rep. Justin Boyd, R-Fort Smith, and Rep. Bob Johnson, D-Jacksonville, will likely be considered in the Senate City, County and Local Committee tomorrow.

This bill will:

- Implement legislation to reflect the voters' support of Issue 3 in the past general election – 65 percent voted for passage.
- Remove the 5 percent cap on Amendment 82 bonds – what the voters approved.

- Provide a framework for municipalities/counties to appropriate money for economic development projects and economic development services while also maintaining safeguards for judicious use of municipal/county resources.
 - Cost Benefit Analysis required for expenditures over \$100,000.
 - Recapture provisions and reporting are included.
 - 5 percent cap on expenditures of the municipality's/county's general revenue and reserves of the previous fiscal year, but does allow for exceeding the 5 percent upon issuance of a financial forecast of the governing body by an independent CPA. Revenue that is specifically dedicated by law or public vote for economic development purposes is excluded from these limitations/restrictions.
- Does not prohibit or restrict funding economic development projects through revenue bonds.
- Bill was reviewed and drafted in cooperation with the Arkansas Economic Development Commission, the Arkansas Municipal League, the Arkansas State Chamber, and the Arkansas Economic Developers and Chamber Executives.

Please ask your Senator to support this bill.

HB 1732 by Rep. Matthew Shepherd, R-El Dorado, and Sen. Lance Eads, R-Springdale, was approved in the House last week and has been assigned to the Senate City, County and Local Committee.

This bill seeks to amend 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.

Please ask your Senator to support this bill.

DONNING & DOFFING

HB 1846 by Rep. Charlie Collins, R-Fayetteville, and Sen. Bart Hester, R-Cave Springs, is on tomorrow's agenda in the House Public Health, Welfare and Labor Committee.

It seeks to establish that an employer is not subject to liability on account of the failure of the employer to pay an employee minimum wage or to pay an employee overtime compensation for or on account of certain activities that are not principal to the employee's job. This is an important bill that we had developed and **support**.

This bill does not cut into employee protections, but instead puts employers and employees back where they were before a court case was decided. A dissent in the court case cautioned against opening the floodgates of litigation at the expense of businesses in Arkansas, and warned that the opinion "undermines the collective-bargaining process and destroys any confidence employers and employees have in the enforceability of their agreements" and that the FLSA does not consider such activities "work" under state or federal law.

NET OPERATING LOSS CARRY FORWARD

HB 1788 by Rep. Jim Dotson, R-Bentonville, awaits consideration in the House Revenue and Taxation Committee.

This bill seeks to gradually extend the duration over which net operating losses can be carried forward to the following tax year for income tax purposes, beginning with six years on January 1, 2017, and building to 10 years on January 1, 2021. This is an issue we've been working on for about eight years. We **support** this bill.

INCOME TAX THROWBACK RULE

HB 1790 by Rep. Jim Dotson, R-Bentonville, awaits consideration in the House Revenue and Taxation Committee.

This bill seeks to repeal the provision that business income is taxable in another state based on having out-of-state activities that exceed those protected by 15 U.S.C. 381-385. It seeks to repeal the throwback rule for sales to states where the taxpayer is not taxable. This is an issue our Tax Committee would like to see addressed by the legislature. We **support** this bill.

PROTECTION FROM MASS PICKETING

SB 550 by Sen. Trent Garner, R-El Dorado, awaits consideration in the Senate Judiciary Committee, which was not able to get to it yesterday.

This bill seeks to create a Class A misdemeanor for unlawful mass picketing, defined as engaging in a demonstration that hinder or prevent the pursuit of lawful work or employment, obstruct entrance to a place of employment or interfere with the use of roads. This is a bill we had developed, filed and **support**.

FRANCHISE RELATIONS

SB 695 by Sen. Linda Collins-Smith, R-Pocahontas, awaits consideration in the Senate Public Health, Welfare and Labor Committee. This is a bill to clarify the relationship between a Franchisor and Franchisee in regard to employees. We **support** this bill.

BILLS WE SUPPORT

WORKERS COMPENSATION

HB 1951, HB 1952 and HB 1953, by Rep. Charlie Collins, R-Fayetteville and Sen. Jim Hendren, R-Gravette, are workers' compensation bills filed by the Arkansas Self Insured Association which we **support**. **HB 1952** and **HB 1953** address issues we have been working on for more than 10 years. These bills are expected to be considered tomorrow in the House Public Health, Welfare and Labor Committee.

HB 1951 seeks to clarify effectiveness of settlements made in Workers' Compensation that involve federal benefits.

HB 1952 provides that an employer is required to provide medical treatment to an employee only if a compensable injury is the major cause of the need for medical treatment.

HB 1953 seeks to: a) reverse case law that required former employees who are properly terminated for misconduct are not entitled to temporary total or temporary partial disability benefits, b) required that for muscle spasms to constitute an objective finding of injury a specific diagnosis of palpable muscle spasms is necessary, and the presence of muscle spasms may not be inferred from diagnosis or treatment that involves a prescription for a type of muscle relaxant in the absence of objective findings, and c) addresses the issue of subrogation in workers' compensation cases.

HB 1813 by Rep. David Hillman, R-Almyra, address the rabies issue that we addressed in our bill, HB 1586. We advised Rep. Hillman to file this bill because it was clear our bill was not going to pass before Monday's bill filing deadline. It received a Do Pass recommendation by the House Public Health, Welfare and Labor Committee yesterday and is on this afternoon's House Calendar.

SB 652 by Sen. David Sanders, R-Little Rock, is a shell bill filed by trucking interests to address medical providers. This is a bill we will support.

EMPLOYER PAYROLL PAYMENTS

HB 1609 by Rep. Clarke Tucker, D-Little Rock, was approved by the Senate yesterday by a vote of 34-0.

ABOVE GROUND STORAGE TANKS

HB 1721 by Rep. Andy Davis, R-Little Rock and Sen. John Cooper, R-Jonesboro, awaits consideration the Senate Public Health, Welfare and Labor Committee.

This 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 2176 by Rep. Austin McCollum, R-Bentonville, is identical to **HB 1551**, which remains on the Deferred List in the Public Health, Welfare and Labor Committee. **HB 2176** is on tomorrow's agenda.

Here are two legal opinions about HB 2176 that set forth our reasons for opposing:

You can read the Wright Lindsey Jennings letter [here](#).

You can read the Cross Gunter Witherspoon and Galchus letter [here](#).

We join many business types and groups that **oppose this bill. Please ask your Representative to oppose HB 2176.**

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.

BILLS OF INTEREST

WORKERS' COMPENSATION

There are five Workers' Compensation shell bills:

SB 675 and **SB 717**, by Sen. Missy Irvin, R-Mountain View

SB 747 by Sen. Bart Hester, R-Cave Springs

SB 653 by Sen. David Sanders, R-Little Rock

HB 2108 by Rep. Bob Johnson, D-Jacksonville.

We will keep an eye out for amendments.

GUNS IN EMPLOYER PARKING LOTS

SB 37 by Sen. Alan Clark, R-Lonsdale, has been sent back to Committee to consider an amendment. This bill addresses the rights of employees to keep a firearm in their vehicle on business property. We have been working with Sen. Clark and Sen. Hickey, who has a similar bill, **SB 33**.

STATE BOARDS, COMMISSIONS AND COMMITTEES

SB 341, by Sen. Lance Eads, R-Springdale, nine additional senators and 14 representatives, awaits consideration in the House State Agencies Committee.

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

There were 2,065 bills filed this session, 785 in the Senate and 1,280 in the House.

We have started reviewing summaries of the 541 bills filed on the last day to file, March 6, and will likely continue to add new bills to our tracking, which currently lists 638 bills.

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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