



Daily Legislative Update

91st General Assembly

Wednesday, March 22, 2017 – Day 73

CAPITOL SCHEDULE

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

The House passed HCR 1016 yesterday, which allows them to recess Thursday and Friday of this week. The Senate plans to work Thursday morning and be out Friday.

Multiple sources are saying the legislature will not finish by March 31, but should complete their work the first week of April.

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 * * *

WORKERS COMPENSATION

HB 1586 by Rep. John Payton, R-Wilburn, and Sen. Jason Rapert, R-Conway, continues to await consideration by the full Senate.

The primary objection to **HB 1586** has been concern about claimants who are severely injured. Thus, we are having one of the shell bills we filed, **SB 682**, amended to include the language of HB 1586, but with an exception to the 450-week cap for catastrophic injuries.

SB 682 will exclude the following injury types from the 450-week cap:

- Spinal cord injuries involving paralysis of an arm, leg or the trunk, loss of both hands, both legs, both eyes or any two thereof in the absence of clear and convincing proof to the contrary
- Severe brain or closed head injury that is established by objective medical findings and is evidenced by: severe sensory or motor disturbances, severe communication disturbances, severe complex integrated disturbance of cerebral function, severe disturbance of consciousness, severe episodic neurological disorders
- Second or third degree burns over 25 percent of the body as a whole or third degree burns to 5 percent or more of the face or hands
- Total blindness

- Other conditions at least as severe in nature as any of the listed conditions

Your contacts are most important, this bill will require 24 votes!

Please ask your Senator to Vote YES on SB 682!

BIDDING REQUIREMENTS

SB 521 by Sen. Jimmy Hickey, R-Texarkana, awaits consideration on the Senate floor, which could come as soon as this afternoon.

This bill is an effort to amend the process and requirements for requests for proposals (RFPs) and qualifications (RFQs) for certain public projects. This 19-page bill attempts to address the very complex procurement process for public projects, and it alters the treatment of the following professional services: construction management, architectural, engineering, legal, financial advisory and land surveying. The legislation is difficult to comprehend and will change numerous parts of the current code.

We join the Associated General Contractors, American Institute of Architects, the Municipal League, American Council of Engineering Companies of Arkansas, Arkansas Society of Professional Engineers and others **in opposition to this bill**.

Please contact your State Senator and ask that they vote NO on SB521.

STATE CHAMBER/AIA PRIORITY BILLS – ACTION TODAY **SCHOOL BOARD ELECTION DATES**

HB 1621 by Rep. Mark Lowery, R-Maumelle, and Sen. Jane English, R-North Little Rock, is expected to be considered this morning in the Senate Education Committee.

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

WORKERS COMPENSATION – MULTIPLE ISSUES

HB 1953, by Rep. *Charlie Collins, R-Fayetteville*, and Sen. *Jim Hendren, R-Gravette*, is on today's House Calendar.

This workers' compensation bill addresses issues that we **support** and have worked on for more than a decade.

HB1953 will, among other things, correct several court decisions that have substantially changed the Workers' Compensation Act of 1993, and have negatively impacted the workers' compensation forum. If passed, the legislation provides:

If a claimant is provided transitional work following a work-related injury and is ultimately terminated for cause, that claimant will not be entitled to temporary total disability (TTD) benefits unless he/she is taken completely off work again by a doctor. Medical treatment and other expenses related to the injury will continue to be covered.

A prescription for muscle relaxers will not be deemed an objective finding (for muscle spasms) sufficient to establish a compensable injury.

When a third-party settlement or judgment has been reached with the party at fault associated with a workers' compensation injury, the employer will be reimbursed for expenses paid in the workers' compensation claim from the third-party settlement/judgment. This places the responsibility for payment of expenses associated with an injury caused by a third party on that party/entity and not the employer.

With a Medicare-eligible claimant, the Workers' Compensation Commission will have the discretion to allow for a full and final settlement of all claims, other than future medical treatment.

Please ask your Representative to vote FOR HB 1953

DOUBLE DAMAGES

HB 1737 by Rep. *Charlie Collins, R-Fayetteville*, could be considered today in the Senate Judiciary Committee.

This bill seeks to:

- 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.
- 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 ask your Senator to Vote FOR HB 1737.

PIPELINE EMINENT DOMAIN RESTRICTIONS

HB 2086 by Rep. **Warwick Sabin, D-Little Rock** is on today's agenda in the House Insurance and Commerce Committee. State Chamber/AIA President & CEO Randy Zook is scheduled to testify against this bill.

The bill has been amended, but as filed it sought to restrict the use of eminent domain by private pipeline companies, and:

- Establish that in order to be given the right to exercise eminent domain in the state, a pipeline company must be a natural gas public utility or must be exercising the right of eminent domain in connection with the operation of a common carrier facility.
- Require pipeline companies to provide 30 days' notice of intent to property owners before exercising eminent domain on private property.
- Require pipeline companies to obtain an order from the Arkansas Public Service Commission and permit from the Director of the Arkansas Department of Environmental Quality before exercising right of eminent domain and establishing criteria for each entity to examine and verify before issuing a permit or an order to a pipeline company.
- Outline rules for compensation for damage to property surveyed, used for maintenance or not acquired.

UNEMPLOYMENT INSURANCE

HB 1405 by Rep. Robin Lundstrum, R-Elm Springs, and Sen. Jim Hendren, R-Gravette, received a Do Concur in Senate amendment yesterday by the House Public Health, Welfare and Labor Committee and is on this afternoon's House Calendar for concurrence in the Senate amendment. This bill will lower employers' unemployment insurance taxes by reducing the wage base from \$12,000 to \$10,000, which will provide Arkansas employers approximately \$50 million in annual savings!

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, was given a Do Concur recommendation by the Senate City, County and Local Committee and is on this afternoon's Senate Calendar for concurrence in House amendment.

STATE CHAMBER/AIA PRIORITY BILLS – ACTION YESTERDAY **PROPERTY TAXPAYER PROTECTIONS**

HB 1772 by Rep. Joe Jett, R-Success, and Sen. Jake Files, R-Fort Smith, was approved by the full Senate yesterday afternoon by a vote of 34 to 0. **This bill will Improve Property Tax Administration** in several ways. We very much appreciate the efforts of the **Association of Arkansas Counties** on behalf of the Arkansas Assessors' Association, the **Assessment Coordination Department** and the Tax Division of the **Arkansas Public Service Commission** in working with us over several months to develop this bill. **Please say thank you to your Senator!**

DECEPTIVE TRADE

HB 1742 by Rep. Laurie Rushing, R-Hot Springs, and Sen. Bart Hester, R-Cave Springs, was approved on the House floor yesterday afternoon by a vote of 53 yes, 31 no, 12 not voting and 4 present. It has been assigned to the Senate Judiciary Committee.

As it currently exists, Arkansas's consumer protection law exposes the state's businesses to frivolous lawsuits from individuals who have suffered no real harm. **HB 1742** would

amend the Arkansas Deceptive Trade Practices Act to ensure fairness for all litigants in consumer protection actions.

The Problem:

- Arkansas ranks 44th in the nation in its treatment of class action lawsuits and mass consolidation suits. The current Arkansas Deceptive Trade Practices Act (ADTPA) is one of the elements of such class action lawsuits, and an element that invites abuse.
- Under the current ADTPA, plaintiffs' lawyers have become the primary beneficiaries of our state consumer protection laws.
- Under the current ADTPA, lawyers bring massive class actions on behalf of individuals who experienced no financial loss.
- Arkansas courts take an extremely liberal approach when certifying class action lawsuits, making Arkansas a hot bed for class actions lawsuits by out-of-state lawyers in addition to our own.
- Arkansas is already 44th in the nation for class action lawsuits; our citizens do not need those cases from around the country coming to our already busy courts.

HB1742 Solutions:

- Clarifies the measure of damages and thereby discourages baseless claims and provides greater guidance to the courts.
- Clarifies that to prevail in a claim, an individual must be able to show that they suffered an actual financial loss that was a direct result of their reliance on the alleged activity.
- Narrows the discretion currently practiced by the courts in the class certification process, which will help protect businesses from having a class certified against an otherwise meritless lawsuit.
- Codifies that parties to ADTPA litigation have the right to a trial by jury.

HB1742 Facts:

- This bill in no way changes other uses of class action lawsuits. Federal civil rights and Americans with Disability Act laws can all be pursued in federal courts. This bill fixes a loophole in Arkansas Deceptive Trade Practices Act that allows for class action litigation.
- The Arkansas Attorney General retains the right to bring Arkansas DTPA lawsuits as needed against bad actors. Therefore, Arkansas consumers can continue to be protected from outrageous corporate claims.

Please say thank you to your Representative that voted FOR HB 1742

DONNING & DOFFING

HB 1846 by Rep. Charlie Collins, R-Fayetteville, and Sen. Bart Hester, R-Cave Springs, received a Do Pass as amended recommendation yesterday in the House Public Health, Welfare and Labor Committee and is on today's House Calendar to formally adopt the amendment.

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, 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.

STATE CHAMBER/AIA PRIORITY BILLS – ACTION PENDING **PROTECTION FROM MASS PICKETING**

SB 550 by Sen. Trent Garner, R-El Dorado, is on the House Judiciary Committee agenda.

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

Please ask your Representative to vote FOR SB 550

FRANCHISE RELATIONS

SB 695 by Sen. Linda Collins-Smith, R-Pocahontas, is on the House Public Health, Welfare and Labor Committee agenda.

This bill seeks to clarify the relationship between a Franchisor and Franchisee in regard to employees. We support this bill.

Please ask your Representative to vote FOR SB 695

IMPORTANT BILLS SUPPORTED BY THE STATE CHAMBER **REPEAL OF PREVAILING WAGE LAW**

SB 601 by Sen. Bart Hester, R-Cave Springs, and Rep. Jim Dotson, R-Bentonville, was approved in the Senate yesterday by a vote of 28 to 5. It seeks to repeal the entirety of the Prevailing Wage Law that governed required payments to contractors. We support this bill.

TASK FORCE ON WORKFORCE EDUCATION EXCELLENCE

SB 441 by Sen. Jane English, R-North Little Rock, has been assigned to the House Education Committee. This bill seeks to create the Legislative Task Force on Workforce Education Excellence. We support this bill.

SOCIAL MEDIA

HB 2216 by Rep. Austin McCollum, R-Bentonville, Rep. Grant Hodges, R-Rogers, Rep. Clarke Tucker, D-Little Rock and Rep. Greg Leding, D-Fayetteville, awaits consideration in the Senate Public Health, Welfare and Labor Committee.

This bill was developed by the Arkansas Society of Human Resource Professionals and seeks to make restrictions on employers regarding their employees' social media account apply only to requirements to add the employer to a social media contact list and not to requests, suggestions or otherwise. We support this bill.

BILLS WE OPPOSE

LICENSING

HB 2176 by Rep. Austin McCollum, R-Bentonville, was not considered yesterday in the House Public Health, Welfare and Labor Committee, and HB 1551 was not considered either. We do not expect these bills to come back up.

EMPLOYER PAYMENTS

HB 1624 by Rep. Greg Leding, D-Fayetteville, is on the agenda in the House Public Health, Welfare and Labor Committee. It would require an employer to pay, without conditions, all wages or parts of wages that the employer concedes to be due the employee in a dispute over the amount of wages due to the employee. It also seeks to require that an employee return any property belonging to an employer after a discharge in order to receive wages due.

HB 1625 by Rep. Greg Leding, D-Fayetteville, is on the agenda in the House Public Health, Welfare and Labor Committee. This bill would require an employer of four or more employees to provide to each current employee at least one time each month a pay stub that lists, for hourly employees, the total hours worked and the gross and net wages or for non-hourly employees, the gross and net wages. It would also require the pay stub to include the rate of pay for the pay period, overtime hours and compensation work during the pay period, the pay period for which the payment is being made, itemization of deductions describing at a minimum the name, title or other identifying words or numbers for each deduction, and the employer's name, address and telephone number. Finally, it would permit a pay stub under this section to be provided in either a paper or electronic format.

CREDIT CHECKS

HB 2000 by Rep. Greg Leding, D-Fayetteville, is on the agenda in the House Public Health, Welfare and Labor Committee. This bill seeks to prohibit employers from requiring an employee or job applicant to consent to a credit report check. It also seeks to require employers that obtain a background check on an employee or a job applicant to provide a copy to the employee or applicant upon request.

Many businesses, especially financial institutions, must rely on credit checks for hiring employees whom they trust to help customers with their finances. Also, a number of state and federal statutes require credit checks of employees hired by a state agency or for a state agency to license an applicant.

We oppose these bills based and it's likely they will not come up this session.

BILLS WE SUPPORT – ACTION PENDING

COLLECTING SALES TAXES FROM REMOTE SELLERS

SB 140 by Sen. Jake Files, R-Fort Smith, and Rep. Dan Douglas, R-Bentonville, awaits consideration in the House Revenue and Taxation Committee. This bill 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.

HB 1388 by Rep. Dan Douglas, R-Bentonville, and Sen. Jake Files, R-Fort Smith, awaits consideration in the Senate Revenue and Taxation Committee. 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.

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

WORKERS COMPENSATION – RABIES COVERAGE

HB 1813 by Rep. David Hillman, R-Almyra, awaits consideration on the Senate floor. Action on this bill depends upon the outcome of our workers' comp bill, **HB 1586**, because this bill addresses the rabies issue that is in our workers' comp bill. The purpose of the bill is to clarify that treatment for rabies can be covered under workers' compensation, without presentation of rabies symptoms.

BILLS OF INTEREST

CONSTITUTIONAL AMENDMENT REFERRAL

HJR 1003 by Rep. Jeremy Gillam, is on today's House Calendar to formally adopt an amendment. This Joint Resolution seeks to amend ballot measure laws. If approved by the House and the Senate, it will be a third ballot measure referred to the 2018 General Election ballot.

GUNS IN EMPLOYER PARKING LOTS

SB 37 by Sen. Alan Clark, R-Lonsdale, awaits consideration in the House Judiciary Committee. This bill addresses the rights of employees to keep a firearm in their vehicle on business property.

LICENSING AND REGULATION BILLS

HB 1835 by Rep. Jim Dotson, R-Bentonville and Sen. Bart Hester, R-Cave Springs, received a Do Pass recommendation yesterday morning in the House Public Health Welfare and Labor Committee and is on today's House Calendar. This bill deals with licensing reciprocity.

HB 1880 by Rep. Jim Dotson, R-Bentonville, is on today's agenda in the Senate State Agencies Committee. It would create a sunset of all agency rules in 24 years.

HB 2159 by Rep. Richard Womack, R-Arkadelphia, received a Do Pass recommendation yesterday morning by the House Public Health Welfare and Labor Committee. It would set up a Legislative Oversight Committee to review state Occupational Regulations and licensing.

STATE CHAMBER/AIA BILL TRACKING

TRACKED BILLS

House bills filed 1,280

Senate bills filed 789

State Chamber/AIA tracking 656

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

BILL FILING STATISTICS

By AR Legislative Digest

Bill Type	2017	2015	2013	2011	+/-
House Bills	1,280	1,007	1,300	1,231	+273
Senate Bills	789	1,055	1,192	1,005	-266
House Joint Resolutions	22	27	19	13	-5
Senate Joint Resolutions	14	16	19	12	-2
Totals	2,105	2,105	2,530	2,261	0

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

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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

