



Daily Legislative Update

91st General Assembly

Thursday, March 23, 2017 – Day 74

CAPITOL SCHEDULE

The Senate will convene at 10:00 a.m. this morning and then will be in recess until Monday.

The House is in recess until 1:00 p.m. Monday.

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

SB 682 by Sen. David Sanders, R-Little Rock, Sen. Jason Rapert, R-Conway, Rep. John Payton, R-Wilburn and Rep. Les Eaves, R-Searcy, received a Do Pass as amendment yesterday morning from the Senate Public Health, Welfare and Labor Committee and is expected to be run on the Senate floor this morning.

This bill incorporates the language from our original bill, **HB 1586** by Rep. John Payton, R-Wilburn, and Sen. Jason Rapert, R-Conway, but includes an exception to the 450-week cap for catastrophic injuries.

The primary objection to **HB 1586** was concern about claimants who are severely injured. So, we have addressed that concern by including an exception to the 450-week cap, in **SB 682**, for these injuries:

- 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

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

Please ask your Senator to Vote YES on SB 682!

STATE CHAMBER/AIA PRIORITY BILLS – ACTION PENDING

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 Monday 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

DECEPTIVE TRADE

HB 1742 by Rep. Laurie Rushing, R-Hot Springs, and Sen. Bart Hester, R-Cave Springs, awaits consideration in 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 hotbed 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 the 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, awaits consideration on the House floor.

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.

PROTECTION FROM MASS PICKETING

SB 550 by Sen. Trent Garner, R-El Dorado, awaits consideration in the House Judiciary Committee.

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, awaits consideration in the House Public Health, Welfare and Labor Committee.

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

STATE CHAMBER/AIA PRIORITY BILLS – ACTION YESTERDAY

DOUBLE DAMAGES

HB 1737 by Rep. Charlie Collins, R-Fayetteville, received a Do Pass recommendation yesterday from the Senate Judiciary Committee and awaits consideration on the Senate floor.

It 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.

UNEMPLOYMENT INSURANCE

HB 1405 by Rep. Robin Lundstrum, R-Elm Springs, and Sen. Jim Hendren, R-Gravette, had its Senate amendment concurred in by the House yesterday afternoon. It now goes to the Governor. 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 IMPLEMENTATION 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, had the House amendments concurred by the Senate yesterday. It now goes to the Governor.

PIPELINE EMINENT DOMAIN RESTRICTIONS

HB 2086 by Rep. Warwick Sabin, D-Little Rock, failed for a lack of a second in the House Insurance and Commerce Committee yesterday morning. We **opposed** this bill.

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, has been assigned to the House Public Health, Welfare and Labor Committee. 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, awaits consideration in the House Education Committee. The 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, received a Do Pass recommendation yesterday from 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
SPECIAL COUNSEL FOR STATE AGENCIES

HB 1832 by Rep. Doug House, R-North Little Rock, awaits consideration in the House State Agencies Committee. This bill seeks to allow the employment of special counsel by a state official or entity in certain circumstances and to require special counsel to obtain approval by the attorney general before entering into a settlement agreement.

We **oppose** this bill.

BILLS WE SUPPORT – ACTION YESTERDAY
WORKERS COMPENSATION – MULTIPLE ISSUES

HB 1953, by Rep. Charlie Collins, R-Fayetteville, and Sen. Jim Hendren, R-Gravette, was defeated in the House yesterday by a vote of 61 yes (needed 67), 18 no and 17 not voting. This was the Arkansas Self-Insurers Association (ASIA) workers' compensation bill that addressed issues that we **support** and have worked on for more than a decade.

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. 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.

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 on 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

BIDDING REQUIREMENTS

SB 521 by Sen. Jimmy Hickey, R-*Texarkana*, awaits consideration on the Senate floor, while discussions about potential amendment occur. We have members on both sides of the amendment discussions.

CONSTITUTIONAL AMENDMENT REFERRAL

HJR 1003, by Rep. Jeremy Gillam, R-*Judsonia*, awaits consideration on the House floor. 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*, was defeated on the House floor yesterday by a vote of 35 yes, 27 no and 34 not voting.

HB 1880 by Rep. Jim Dotson, R-Bentonville, awaits consideration 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*, awaits consideration on the House floor. 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 Arkansas 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.

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