



Daily Legislative Update

91st General Assembly

Friday, March 24, 2017 – Day 75

CAPITOL SCHEDULE

The House and Senate are in recess until Monday.

Considering the recess, this report is reduced a bit. We will return to a full report on Monday.

It appears very unlikely that the Session will end by March 31, but it's likely they'll finish before April 7.

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.

WORKERS COMPENSATION

SB 682 by Sen. David Sanders, R-Little Rock, Sen. Jason Rapert, R-Conway, and Rep. John Payton, R-Wilburn, was defeated on the Senate floor yesterday by a vote of 9 yes, 17 no, 6 not voting, 1 present and 2 excused. You can view the vote by clicking [here](#).

We will immediately begin the process of informing employers about the consequences of this vote.

You can view the information we provided the Senate Friday by clicking [here](#).

Please be sure to thank the Senators that voted YES!

STATE CHAMBER/AIA PRIORITY BILLS – ACTION NEXT WEEK

DOUBLE DAMAGES

HB 1737 by Rep. Charlie Collins, R-Fayetteville, could be considered Monday 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 violations found to have been committed by employers.

Please ask your Senator to Vote FOR HB 1737.

SCHOOL BOARD ELECTION DATES

HB 1621 by Rep. Mark Lowery, R-Maumelle, and Sen. Jane English, R-North Little Rock, awaits consideration 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 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 entrance 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

BILLS WE OPPOSE

REQUIREMENT TO USE RESIDENT BUSINESSES IN INCENTIVIZED PROJECTS

HB 1876 by Rep. Michael John Gray, D-Augusta, received a Do Pass from the House Agriculture, Forestry and Economic Development Committee yesterday and could be on the House floor Monday.

This bill seeks to require persons or entities engaging in a financial incentive agreement with the state to make an effort to contract with resident entities in completing the project that is subject to the incentive agreement. We are concerned that this would complicate any sort of project that has qualified for incentives from AEDC.

This bill is new to our Daily Update and we oppose this bill.

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.

BILL WE SUPPORT

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. We support this bill.

IMPORTANT BILL

BIDDING REQUIREMENTS

SB 521 by Sen. Jimmy Hickey, R-Texarkana, was approved on the Senate floor yesterday by a vote of 18 yes, 4 no, 8 not voting and 3 present. This bill now goes to the House for consideration.

We stand with our member engineers that are opposed to this bill. We are also considerate of our construction and architect members that have become neutral on the bill after it was amended.

BILL OF INTEREST

HB 1166 by Rep. Laurie Rushing, R-Hot Springs, awaits consideration in the Senate Insurance and Commerce Committee. This bill seeks to clarify the obligations of residential landlords and residential tenants and to require implied quality standards for tenants of residential real property. We have been contacted and asked if this bill might be a problem for landlords. [If you are a landlord, you should take a look at this bill.](#)

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.

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