



## Daily Legislative Update

91st General Assembly

Thursday, March 30, 2017 – Day 81

### CAPITOL SCHEDULE

The Senate will convene at 9:00 a.m. this morning. The House will convene at 1:30 p.m. this afternoon.

Yesterday, the Joint Budget Committee adopted the identical Revenue Stabilization Bills, **HB 1548** by Rep. Lane Jean, R-Magnolia and **SB 295** by the Joint Budget Committee. These bills will need to have amendments engrossed and then be passed by their originating Chamber and then the opposite Chamber to adopt the State's budget for July 1, 2017 to June 30, 2018.

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 – ACTION TODAY

#### DECEPTIVE TRADE

**HB 1742** by Rep. Laurie Rushing, R-Hot Springs, and Sen. Bart Hester, R-Cave Springs, will be considered this morning on the Senate floor.

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 ask your Senator to vote FOR HB1742**

**REPEAL OF PREVAILING WAGE LAW**

**SB 601** by Sen. Bart Hester, R-Cave Springs, and Rep. Jim Dotson, R-Bentonville, is on this afternoon's House calendar.

This bill seeks to repeal the entirety of the Prevailing Wage Law that governs required payments by contractors. We support this bill.

- Prevailing Wage is an arcane law and its ineffective processes do not reflect the current construction market.
- Countless studies have examined the harm these laws can do around the country by artificially increasing costs.
- Examples can be found in a number of studies on publicly funded construction projects. The Mackinac Center issued a report that found in Michigan, prevailing wage needlessly inflated the cost of public construction by 10-15 percent.
- The nonpartisan Anderson Economic Group found that from 2002 through 2011 in Illinois local and state governments could have saved an estimated \$1.6 billion on school construction costs if they did not have prevailing wage.
- Eliminating this law in Arkansas will lower state and local government costs of doing business, creating opportunities for more schools, roads, bridges, low-income housing, and hospitals, as well as, in turn, create more jobs in construction.

**THIRD GRADE READING**

**SB 587** by Sen. Alan Clark, R-Lonsdale, is on this morning's agenda in the House Education Committee.

We **support** this bill that seeks to require all public school districts have a reading intervention program in reading for grades K-3 and make promotion to the next grade dependent on demonstration of appropriate reading skills at grade 3.

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

**HB 1621** by Rep. Mark Lowery, R-Maumelle, and Sen. Jane English, R-North Little Rock, was approved by the full Senate yesterday by a vote of 23 yes, 7 no and 5 not voting. This bill will allow school districts to hold their school board elections at the same time as either the Primary or General Election. We have been working to accomplish this for more than a decade! **Please say thank you to any Senator you asked to vote FOR HB 1621!**

### **PROTECTION FROM MASS PICKETING**

**SB 550** by Sen. Trent Garner, R-El Dorado, was approved by the House yesterday by a vote of 58 yes, 21 no and 1 not voting. It now returns to the Senate for their concurrence in a House Amendment. This bill will 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. **Please say thank you to any Representative you asked to vote FOR SB 550!**

### **DONNING & DOFFING**

**HB 1846** by Rep. Charlie Collins, R-Fayetteville, and Sen. Bart Hester, R-Cave Springs, was approved by the Senate afternoon by a vote of 35 to 0. This bill will 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.

### **FRANCHISE RELATIONS**

**SB 695** by Sen. Linda Collins-Smith, R-Pocahontas, was approved by the House yesterday on a vote of 74 to 4. This bill will clarify the relationship between a Franchisor and Franchisee in regard to employees. **Please say thank you to any Representative you asked to vote FOR SB 695!**

### **BILLS WE SUPPORT** **INCOME TAX CREDIT**

**HB 688**, by Sen. Dave Wallace, R-Leachville, was approved in the Senate yesterday and has been assigned to the House Revenue Taxation Committee for likely consideration this morning.

This bill seeks to amend the income tax credit for waste reduction, reuse, or recycling equipment, which would be very beneficial to the Arkansas steel industry, which is one of our leading industrial sectors. We've added this bill to our report and we **support** this bill.

### **BILLS WE OPPOSE** **BIDDING REQUIREMENTS**

**SB 521** by Sen. Jimmy Hickey, R-Texarkana, was defeated in the House State Agencies Committee yesterday morning.

## **PAY STUB REQUIREMENTS**

**HB 1625** by Rep. Greg Leding, D-Fayetteville, is on this afternoon's Senate Calendar.

This bill would apply to employers with five or more employees and for employees that have worked at least 60 hours. In those cases, the employer would be required to provide 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.

We fear that some small companies may need to update their payroll records to comply. The information it requires to be disclosed must already be provided to employees (by the FLSA, NLRA, or Equal Pay Act); just not on a pay stub.

However, it will require changes to nearly every "pay stub" including those from third-party payroll companies. For example, it will require employers to include a non-exempt employees number of hours worked and hourly pay rate on pay stubs (or through one month-end report). This info is not usually included on a pay stub but rather the time cards.

This bill will add more administrative requirements on businesses. Smaller businesses without a designated payroll department (or third party contractor) will be most commonly hit with the penalties for non-compliance.

**We oppose this bill.**

## **SPECIAL COUNSEL FOR STATE AGENCIES**

**HB 1832** by Rep. Doug House, R-North Little Rock, is not listed on the House State Agencies Committee agenda.

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.

## **BACKGROUND CHECKS**

**HB 2000** by Rep. Greg Leding, D-Fayetteville, is on this morning's Senate Calendar.

This bill seeks to require employers who get background checks on applicants or employees to provide a copy of the background check information to the applicant or employer upon request.

We have heard from an employment attorney that expressed concerns about this bill's impact being over broad.

## **BILLS OF INTEREST**

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

**SB 37** by Sen. Alan Clark, R-Lonsdale, will be considered this morning as a Special Order of Business at 10 a.m. in the House Judiciary Committee. This bill seeks to require employers to allow employees to keep guns in their vehicles on private employer property.

### **LICENSING**

**HB 2159** by Rep. Richard Womack, R-Arkadelphia, was defeated in the Senate Public Health Welfare and Labor Committee yesterday morning, but it may be brought up again for reconsideration. This bill seeks to create a Legislative Oversight Committee on licensing.

### **UNIFORM COMMERCIAL CODE**

**SB 414** by Sen. Bart Hester, R-Cave Springs, is on this morning's agenda in the House Judiciary Committee.

This bill creates a process for contesting unauthorized financing statements that are filed against an individual or organization under the Uniform Commercial Code by entities other than banks or agricultural credit providers. It seeks to:

- Authorize the Secretary of State to file termination statement based on an affidavit that a financing statement was filed by a person not authorized to do so
- Authorize a secured party identified in the termination statement to bring action in circuit court seeking determination

We have been contacted by multiple parties who have concerns with this bill. We recommend that you examine it if it appears to impact your business at all.

### **GUNS AT SPORTING EVENTS**

**SB 724** by Sen. Jonathan Dismang, R-Searcy, is on this afternoon's House Calendar. This is the bill that has drawn much media attention, which seeks to create an exception to a law previously adopted allowing guns on college campuses. If approved, this bill would create an exception for sporting venues and other places.

### **LANDLORDS**

**HB 2135** by Rep. Warwick Sabin, D-Little Rock, is on tomorrow's House Insurance and Commerce Committee agenda.

This bill seeks to clarify the obligations of residential landlords and residential tenants and to require minimum habitability standards for tenants of resident real estate.

If you are a landlord, you should look at this bill.

### **CONSTITUTIONAL AMENDMENT – BALLOT PROPOSALS**

**HJR 1003** by Rep. Jeremy Gillam, R-Judsonia, is on this morning's Senate Calendar.

This Joint Resolution seeks to become the Legislature's third ballot referral to the 2018 General Election Ballot. If referred and approved by voters, it would increase petition signature requirements, prohibit an amendment that bestows powers to an individual or business by name and other changes to amendment elections.

## HIGHWAY FUNDING

**HB 2085** by Rep. Johnny Rye, R-Trumann, was defeated yesterday morning in the Senate Revenue and Taxation Committee. This bill sought to distribute a portion of the sales and use tax collected from sellers that do not have a physical presence in the state to the state highway and transportation department fund.

## 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](http://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](mailto:rzook@arkansasstatechamber.com)

Kenny Hall, Executive Vice President:

[khall@arkansasstatechamber.com](mailto:khall@arkansasstatechamber.com)

Andrew Parker, Director of Governmental Affairs:

[aparker@arkansasstatechamber.com](mailto:aparker@arkansasstatechamber.com)

Holly Wilson, Director of Governmental Affairs:

[hwilson@arkansasstatechamber.com](mailto:hwilson@arkansasstatechamber.com)

Toni Bahn, Director of Governmental Affairs:

[tbahn@arkansasstatechamber.com](mailto:tbahn@arkansasstatechamber.com)

State Chamber/AIA phone: (501) 372-2222

State Chamber/AIA web site: [www.arkansasstatechamber.com](http://www.arkansasstatechamber.com)

To **unsubscribe** to *Daily Legislative Updates*, please e-mail Deb Mathis at [dmathis@arkansasstatechamber.com](mailto:dmathis@arkansasstatechamber.com) and write "unsubscribe DLU" in the subject box.

*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

---

---