



## Daily Legislative Update

91st General Assembly Fiscal Session  
Monday, February 12, 2018

### LEGISLATIVE FISCAL SESSION BEGINS TODAY

The 91<sup>st</sup> Arkansas General Assembly will convene its Fiscal Session at noon today.

Arkansas Fiscal Sessions are limited to 30 days, but can be extended an additional 15 days by a 3/4<sup>th</sup> vote of each Chamber. March 13 would be day 30 and March 28 would be day 45. House Speaker Jeremy Gillam has filed **HCR 1002**, which calls for adjournment on March 22 or earlier.

Governor Asa Hutchinson will address a Joint Session at 12:30 p.m. today in the House Chamber. The Joint Budget Committee will convene following adjournment of both chambers.

### BILLS

As of mid-day Thursday, 225 appropriation bills had been filed; 121 by the House and 104 by the Senate. Also, 109 Interim Study Proposals have been filed; these issues can be considered by Committees that do not have budget responsibilities. However, these issues will not produce legislation in the Fiscal Session.

The bill filing deadline for Identical Resolutions for Non-Appropriation bills, which require a 2/3<sup>rd</sup> vote by both Chambers to consider, is February 12.

The bill filing deadline for Appropriation Bills (except on consent of 2/3 vote) is February 26. This is also the bill filing deadline for any non-appropriation bills for which an Identical Resolution has been approved.

### ARKANSAS WORKS

The General Assembly cannot consider non-appropriation bills during a Fiscal Session unless identical Resolutions are adopted in both Chambers by a 2/3rds majority vote. So far only one attempt to gain consideration on a non-appropriation issue has been filed. **HR 1002** by Rep. Dan Sullivan and **SR 3** by Sen. Gary Stubblefield are identical and seek to “authorize Representative Miller to introduce a non-appropriation bill to freeze new enrollment in the Arkansas Works Program on July 15, 2018.”

Regardless of whether **HR1002/SR3** is authorized to be filed, those who oppose Arkansas Works are likely to oppose approval of the Department of Human Services’ budget. With three open seats in the Senate, the votes to reach the necessary super majority will be a challenge.

This issue has also spilled over into pharmacy-related issues that can add more complication to this Fiscal Session.

### **STATE CHAMBER/AIA LEGISLATIVE RECEPTION**

The State Chamber/AIA Annual Legislative Reception will be held from 4:30 - 6:30 p.m. on Tuesday, February 20th under the big tent in our north parking lot.

This is an opportunity to network and visit with members of the Arkansas General Assembly, elected Constitutional officers, state agency personnel and State Chamber/AIA members. Please join us!

### **ELECTIONS**

A Special Primary Election for three open seats is tomorrow, Tuesday, February 13. The open seats are for Senate Districts 16 and 29 and House District 83.

There are three Republican candidates seeking Senate District 16, which is vacant following the death of Senator Greg Standridge. The candidates are Breanne Davis, Bob Bailey and Luke Heffley. If a runoff election is required, it would be held on March 13. Democrat Teresa Gallegos awaits the winner of the Republican Primary in a General Election that will be held on May 22.

Ricky Hill and Jim Coy will meet in a Republican Primary for Senate District 29, which is vacant due to the resignation of Eddie Joe Williams who took a federal job. The winner will face Democrat Steve McNeely in a General Election on May 22.

House District 83 is open following the resignation of David Branscum who took a federal job. Donald Ragland and Timmy Reid will meet in a Republican Primary tomorrow. No Democrat filed for this seat's Special Election.

The Candidate Filing Period will open at noon on February 22 and close at noon on March 1. Primary Elections will be held on May 22.

### **UNEMPLOYMENT INSURANCE TAX REDUCTION**

Employers will soon start enjoying a reduction in their unemployment insurance (UI) taxes thanks to legislation produced by the State Chamber/AIA. **Act 734 of 2017**, which was filed as HB 1405 by Rep. Robin Lundstrum, R-Springdale, Sen. Jim Hendren, R-Gravette and 24 others, reduces the wage base from \$12,000 to \$10,000. Each employers' UI tax rate is applied to the wage base, which is the first amount of each employee's earnings. For example, if an employer's UI tax rate is 2.5%, they will pay \$50 per employee less in 2018. UI tax payments are due in April for the first quarter of 2018.

### **LEGISLATIVE TASK FORCES**

#### **TAX RELIEF & REFORM**

This Task Force completed its Review Phase last Monday and plans to move into its Recommendations Phase in March. They have scheduled a meeting for March 19 and 20 to discuss sales taxes, then will meet for two days in April to discuss income taxes and two days in May to discuss excise and property taxes. To review their complete Working Timeline, click this link:

<http://www.arkleg.state.ar.us/assembly/2017/Meeting%20Attachments/109/256/Working%20Timeline.pdf>

## **OCCUPATIONAL LICENSING AND REGULATIONS**

A new Task Force is expected to be appointed soon to study and make recommendations regarding occupational licensing and regulations. This Task Force will consist of five Senators appointed by Senate President Pro Tem Jonathan Dismang, five Representatives appointed by House Speaker Jeremy Gillam and five agency representatives appointed by Governor Asa Hutchinson.

An Advisory Group has already been formed and met once. The Advisory Group will work with the Task Force to provide information in support of the Task Force's review. This action follows a Core Group of legislators and others who attended a meeting last fall in Arizona, along with 10 other states whose applications were accepted to participate. At the meeting, presentations were made on this issue by the National Governors Association, National Council of State Legislatures and Council of State Governments.

The State Chamber/AIA has a seat on the Advisory Group, which consists of predominantly state agency representatives along with us, the AFL-CIO and a consumer. This process has the potential to produce positive results and avoid the controversy over this issue that arose during the 2015 and 2017 Legislative Sessions.

## **RECENT COURT DECISIONS**

### **SOVEREIGN IMMUNITY**

On January 18, the Arkansas Supreme Court issued a decision in a non-tax case styled *The Board of Trustees of the University of Arkansas v. Andrews*, which reversed existing case law on sovereign immunity. The apparent implication for taxpayers is to deny the right to sue the state. This may affect all taxpayers seeking judicial relief against DFA, and the right to sue over DFA refund claim denials seems particularly at risk. The *Andrews* case reinstates the pre-1996 case law and holds that the legislature cannot statutorily waive sovereign immunity. The opinion goes on to note that the Arkansas Claims Commission was the proper avenue for redress against state action for the aggrieved plaintiff in that case. This case presents many troubling implications including its impact on the case load of the Claims Commission, impact on bonding and the state credit rating.

### **WAIVER OF JURY TRIAL**

In early December the Arkansas Supreme Court issued a decision in the case *Tilley v Malvern National Bank and Stephen Moore*, which declared that pre-litigation waivers of the right to a jury trial were unenforceable under the Arkansas Constitution. This decision will be very problematic for a wide variety of business transactions. Fortunately, this issue can be fixed legislatively, and plans are being made to seek a legislative fix in any Special Session that might arise this year or during the 2019 Regular Session.

## **STATE CHAMBER/AIA TRACKED BILLS**

We have not added any bills to our tracking so far and may not need to track any bills.

## **LEGISLATIVE SESSION INFORMATION**

To view schedules, calendars, bill information and legislator information, visit: [www.arkleg.state.ar.us](http://www.arkleg.state.ar.us).

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