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## 92nd General Assembly April 10, 2019 – Session Day 87

### SESSION ENDS

The 92d General Assembly recessed today. Leadership may call the General Assembly into session to correct errors and consider vetoes if necessary. Otherwise, they will return on April 24 to adjourn Sine Die.

### TODAY AT THE CAPITOL

#### WORKFORCE DEVELOPMENT – STATE CHAMBER/AIA PRIORITY LEGISLATION

**SB 522** by Sen. Jane English received a Do Pass as Amended recommendation yesterday morning from the Senate Education Committee and was approved by the Senate today 35 to 0. The bill will increase industry involvement in workforce training by amending the duties of the Career Education and Workforce Development Board and renames it as the Office of Skills Development and the Career Education and Workforce Development Board. It also would authorize a voting member of the board to establish a subcommittee that is made up of members relevant to the specific industry in order to better develop recommendations. Finally, it would add one representative from the Department of Human Services, the Department of Correction, and the Arkansas Economic Developers and Chamber of Commerce Executives (AEDCE) as nonvoting members. We developed and support this bill.

#### LOW READING ASSESSMENT LEVELS

**SB 603** by Sen. Alan Clark received a Do Pass as Amended recommendation yesterday morning from the Senate Education Committee and was approved by the Senate this morning 35 to 0. It seeks to create personnel reporting requirements for schools based on low reading assessment levels. The amendment addresses concerns of the bill's critics. We supported this bill.

### YESTERDAY AT THE CAPITOL

#### CORPORATE INCOME TAX REFORM – STATE CHAMBER/AIA PRIORITY BILL

**SB 576** by Sen. Bart Hester, 10 other Senators and Rep. Dan Douglas was signed into law yesterday by Governor Hutchinson as Act 822 of 2019.

Mike Wickline of the Arkansas Democrat Gazette summarized the bill, yesterday's signing ceremony and press conference in today's paper in part as follows:

*[Governor Asa] Hutchinson spokesman J.R. Davis after the news conference. "It is a truly comprehensive, competitive tax bill that will put us in a better position with our surrounding states and support our industries and our businesses to a greater extent," Hutchinson said.*

*The bill "includes what many of the municipalities and small businesses wanted in our state, a procedure to collect sales and use taxes on remote sellers and this is not*

impacting the smallest of businesses," Hutchinson said.

Under Act 822, out-of-state remote sellers without a physical presence in the state will be required to collect and remit sales and use taxes on annual sales of more than \$100,000 from products and services delivered into Arkansas. Alternatively, such sellers would be required to collect sales and use taxes if they sold products and services for delivery in Arkansas on at least 200 separate transactions. These thresholds are identical to those imposed by South Dakota that were upheld by the U.S. Supreme Court in 2018 in *South Dakota v. Wayfair*, the finance department said.

These out-of-state sellers will begin collecting the tax July 1. The sales thresholds would apply to the previous calendar year or the current year. Act 822 also requires "marketplace facilitators," such as Amazon or eBay, that sell or facilitate sales for their participating sellers to collect and remit applicable state sales taxes on all purchases through the marketplace.

The finance department projects that these requirements would raise \$32.4 million in revenue in fiscal 2020, over 11 months, and \$35.3 million in fiscal 2021, based on a full 12 months. The department also forecasts the bill would raise \$10.8 million for cities and counties in fiscal 2020 and \$11.8 million in fiscal 2021 because of local sales taxes.

According to the department, Act 822 also would:

- Change the state's sales and tourism tax provisions to provide that "accommodations intermediaries" would be required to collect and remit Arkansas taxes when furnishing an accommodation in the state. That's projected to raise \$3.1 million in state revenue in fiscal 2020 and then \$4.2 million in fiscal 2021.
- Reduce the state's top corporate income tax rate from 6.5 percent to 6.2 percent for income exceeding \$100,000 for tax years starting on or after Jan. 1, 2021, and to 5.9 percent for income exceeding \$25,000 for tax years beginning on or after Jan. 1, 2022. These corporate income tax cuts would reduce revenue by \$9.8 million in fiscal 2021, \$29.5 million in fiscal 2022 and \$39.3 million in fiscal 2023 and beyond.  
"I applaud our legislators because they wanted to put this as a priority. Mine has been concentrated on individual income tax rate reductions, but they want to make sure that we are competitive in our corporate income tax rate," Hutchinson said.
- Extend the net operating loss carry-forward period from five to eight years for losses occurring in the tax year starting Jan. 1, 2020, and to 10 years for losses in tax years beginning on or after Jan. 1, 2021, according to the finance department. That is projected to reduce state revenue in fiscal 2026 by \$7.8 million and eventually \$70 million in fiscal 2032.
- Change the apportionment formula for multistate corporations from three factors to a single-sales factor. That's projected to increase revenue by \$357,000 in fiscal 2021 and \$714,270 in fiscal 2022 and beyond.
- Provide a carwash-related sales-tax exemption and levy monthly water usage fees on operators of tunnel carwashes and automatic carwashes. The fees would be calculated on eight-tenths of the total aggregate number of gallons of water used during the month and levied at four-tenths of a cent per gallon on tunnel carwashes and at two-tenths of a cent on automatic carwashes. The changes are projected to reduce revenue by \$3.3 million a year.

Asked about the potential impact on the state government's essential services, Hutchinson said, "Because of a growing economy, we can lower tax rates, which lowers the growth of revenue in our state. But because of the growing economy, we don't sacrifice essential services."

## **PRE-JUDGMENT AND POST-JUDGMENT INTEREST RATES – STATE CHAMBER/AIA PRIORITY LEGISLATION**

**SB 544** by Sen. Missy Irvin, Rep. Doug House and others passed the Senate yesterday 25 to 8, as amended by the House. It will change the pre-judgment and post-judgment interest rates from 10 percent per annum to the Federal Reserve primary credit rate in effect on the date on which the judgment is entered plus 2 percent. It would also set the rate for an action on a contract at the rate provided by the contract unless it is less than the above rate. We supported this bill.

## **BLOCKCHAIN TECHNOLOGY**

**HB 1944** by Rep. Stephen Meeks and Sen. Joyce Elliott was approved by the Senate yesterday 35 to 0. It provides that a signature, record or contract that is secured through blockchain technology is considered to be in electronic form and to be an electronic signature or record. It also defines a smart contract and declares smart contracts to be legally effective. We supported this bill.

### **INDEPENDENT CONTRACTOR**

**HB 1850** by Rep. Austin McCollum and Sen. Bart Hester passed in the Senate yesterday afternoon 24 to 4. The bill seeks to establish the Empower Independent Contractors Act amending the definitions of “employee,” “employer” and “employment status” on the basis of a 20-factor test that is similar to a 20-factor test used by the IRS to determine who is considered an independent contractor.

Employers should review the changes this bill makes to their unemployment insurance and workers’ compensation plans. Employers should also be aware that there are multiple other definitions of independent contractor. If an employer determines that their relationship with certain parties has changed from independent contractor to employee or employee to independent contractor, such relationship will not be changed in areas other than workers’ compensation and unemployment insurance.

Here’s a link to HB 1850:

<http://www.arkleg.state.ar.us/assembly/2019R/Bills/HB1850.pdf>

### **TAX APPEALS COMMISSION**

**SB 560** by Sen. Blake Johnson was amended and referred to Interim Study. This is a concept we support, but we believe needs some adjustment. The recall to the Senate may mean the bill will be sent to Interim Study. The bill seeks to create the Tax Appeals Commission, separate and apart from the Department of Finance and Administration (DFA), which shall have jurisdiction over any administrative hearing by a taxpayer who seeks administrative relief from a DFA decision. It would require the Tax Appeals Commission to provide written decisions, including statements of facts, conclusions of the law, and orders to grant relief, invoke remedies and issue orders. It also would require decisions be public in either print or electronic form, allow the Tax Appeals Commission to establish a Small Claims Division, and allow the DFA to seek judicial relief from a decision made by the Tax Appeals Commission.

## **BILLS OF INTEREST**

### **REVENUE STABILIZATION**

**HB 1876** and **SB 597** is the Revenue Stabilization Act (RSA) of 2019. **HB 1876** was approved by the House yesterday 90 to 5 and **SB 597** was approved by the Senate yesterday 35 to 0. Today the House passed **SB 597** 87 to 5 and the Senate passed **HB 1876** 35 to 0.

### **GOVERNMENT TRANSFORMATION**

**HB 1763** by Rep. Andy Davis and Sen. Bart Hester was approved by the House today 96 to 0. This is the Governor’s plan to transform state government by reducing the number of agency direct reports from more than 40 to 15 new Departments that will be managed by a Secretary. Those 15 Secretaries will report directly to the Governor.

### **PHARMACY BENEFIT MANAGEMENT**

**SB 520** by Sen. Kim Hammer passed in the House yesterday 93 to 0.

## **STATE CHAMBER TRACKED BILLS**

Total House bills filed: 986

Total Senate bills filed: 684

Total bills and resolutions we tracked: 551

Our complete tracking list is posted on our website, by category, and can be reviewed by clicking this link: <https://www.arkansasstatechamber.com/governmental-affairs/legislative-tracking/>

## LEGISLATIVE SESSION INFORMATION

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

## Legislative Message Center

House of Representatives: 501-682-6211

Senate: 501-682-2902

## Live Streaming from the Capitol

The House and Senate have links to live streaming of their committee meetings and floor session online.

- House: <https://www.arkansashouse.org/>
- Senate: <http://www.arkansas.gov/senate/>

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