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93rd General Assembly Monday, Feb. 8, 2021 – Session Day 29

TODAY AT THE CAPITOL

The House and Senate convene at 1 p.m. this afternoon.

LEGISLATIVE COMMITTEE MEETINGS

8:30 a.m. – Public Retirement

9:30 a.m. – Senate Tax and State Agencies

2:00 p.m. – Senate Judiciary, Education and Health | House Agriculture, Insurance/Commerce, Aging and City/County/Local

To view the full schedule of floor calendars, committee meetings, their agendas and video access, click [here](#).

NEW BILLS

SB 293 by Sen. Bill Sample would require taxpayers claiming certain sales and use tax credits, refunds or rebates to provide notification to the executive head of the county or municipality that levied the tax, to complete prescribed forms and disclose pertinent tax information.

MONDAY AT THE CAPITOL

HEALTHCARE

SB 99 by Sen. Cecile Bledsoe and Rep. DeAnn Vaught would require healthcare insurers to base step therapy protocols on appropriate clinical practice guidelines or published peer-reviewed data developed by independent experts and establishes exceptions from protocols and procedures for requesting them. *This bill is on this afternoon's House calendar.*

BILL OF INTEREST

SOVEREIGN IMMUNITY

SJR 3 by Sen. Alan Clark is a proposed constitutional amendment ballot referral to eliminate sovereign immunity and permit the State of Arkansas to be sued as a defendant in state court in the same circumstances as any other type of party. It would apply retroactively from the effective date of November 9, 2022. It would require the General Assembly to enact laws to permit the filing of a claim or action pending before the Arkansas State Claims Commission or on appeal with the General Assembly on the effective date of the amendment with a court of competent jurisdiction if the claim would otherwise be barred from being filed in a court. It also provides that claims or actions against the State of Arkansas that would have been barred from being litigated prior to the effective date of the amendment are pending before the State Claims Commission or on appeal to the General Assembly on the effective date, the plaintiff may continue to pursue

the claim before the State Claims Commission or General Assembly or file the claim or action with a court of competent jurisdiction. *This Resolution has been assigned to the Senate State Agencies Committee.*

Our Legislative Agenda includes seeking a referral to the 2022 ballot a measure to address sovereign immunity. To date, we have not found any momentum of support or any bill language. We did not file SJR 3 but will explore its language and who might be backing the Resolution. If you have interest in addressing this issue and/or have an opinion on the language of SJR 3, please let us know.

PENDING STATE CHAMBER/AIA PRIORITY AGENDA BILLS

PROTECTING CRITICAL INFRASTRUCTURE

HB 1321 by Rep. Jimmy Gazaway lists types of enclosed areas that are considered critical infrastructure and adds those areas to criminal mischief and trespass offenses. *This bill awaits consideration by the House Judiciary Committee. This is a State Chamber/AIA Priority bill we support.*

ELECTIVE PASS THROUGH ENTITY TAX

HB 1209 by Rep. Joe Jett is a State Chamber/AIA Priority Agenda bill. This bill will help about 40,000 Arkansas businesses reduce their federal taxes by an estimated \$50 million or more while generating \$4 million in state revenue. The businesses impacted are those set up as passthrough entities—the owners pay tax at the individual level on their business income. Most businesses are set up this way. Under federal law, businesses can deduct state and local taxes (“SALT”) they have paid without a cap, but the individual SALT deduction is limited to \$10,000 for individuals—this is the “SALT cap.” **HB 1209** would let passthrough businesses choose (elect) to instead pay Arkansas tax at the entity level, as a flat tax at the top rate of 5.9%, such that the Arkansas tax should be 100% deductible for federal purposes. The IRS recently blessed the validity of this approach in Notice 2020-75. Several states have already adopted such options, including Oklahoma and Louisiana, and more are expected to adopt them in the coming year. *This bill awaits consideration in the House Revenue and Taxation Committee. This is a State Chamber/AIA Priority bill we support.*

PPP INCOME TAX EXEMPTION

HB 1361 by Rep. Les Eaves and Sen. Jonathan Dismang seeks to adopt federal statutes for the purpose of computing Arkansas income tax liability from the Paycheck Protection Program, loan forgiveness, and emergency grants. It excludes payments received under the Coronavirus Food Assistance Program. It sets the effective date of tax years beginning on or after January 1, 2019. *This bill awaits consideration by the House Revenue and Taxation Committee agenda. This is a State Chamber/AIA Priority bill we support.*

UNEMPLOYMENT INSURANCE EXPERIENCE FORGIVENESS

HB 1212 by Rep. Jack Ladyman and Sen. Missy Irvin is another State Chamber/AIA Priority Agenda bill that will help employers by reducing the impact of layoffs due to COVID-19 on their unemployment insurance taxes. The bill allows benefits paid for unemployment to be noncharged to the separate account of each employer in the base period if they are a result of a declared disaster emergency. The impact has a retroactive effective date of April 4, 2020. *This bill awaits consideration by the Senate Public Health, Welfare and Labor Committee. This is a State Chamber/AIA Priority bill we support.*

UNEMPLOYMENT INSURANCE – CAP STABILIZATION TAX IN 2021

HB 1407 by Rep. Robin Lundstrum and Sen. Ricky Hill seeks to set the stabilization tax under Workforce Services Law (unemployment insurance) as the lesser of either the amount as currently determined or .02 percent, effective for calendar year 2022. *This bill has awaits consideration in the House Public Health, Welfare and Labor Committee. This is a State Chamber/AIA Priority bill we support.*

UNEMPLOYMENT INSURANCE – CAP WAGE BASE IN 2022

HB 1409 by Rep. Robin Lundstrum and Sen. Ricky Hill would set the taxable wage base for Workforce Services Law (unemployment insurance) as the lesser of either the amount

as currently calculated or \$10,000, effective for calendar year 2022. *This bill awaits consideration in the House Public Health, Welfare and Labor Committee. This is a State Chamber/AIA Priority bill we support.*

SOFT DRINK TAX PHASEOUT

HB 1316 by Rep. Lanny Fite and Sen. Dave Wallace seeks to phase out the Soft Drink Tax Act by reducing the taxation rate on drinks and their components every year until 2025, when the subchapter will expire. *This bill awaits consideration by the House Revenue & Taxation Committee. The State Chamber/AIA supports this bill.*

BILLS WE SUPPORT

UNEMPLOYMENT INSURANCE TAX EXEMPTION

SB 236 Sen. Jonathan Dismang and Rep. Joe Jett seeks to exempt from income tax 2020 and 2021 unemployment compensation benefits paid from federal unemployment funds or from Title IV of the Social Security Act. *This bill was approved by the Senate 35 to 0 and has been assigned to the House Revenue & Taxation Committee. The State Chamber/AIA supports this bill.*

EXPANSION OF EXISTING SALES TAX EXEMPTION

SB 26 by Sen. James Sturch seeks to extend the reduced sales and use tax rates for utilities used by manufacturers to the use of coal. It provides that the sale of natural gas, electricity and coal will be subject to the excise tax levied in Amendment 101. The reduction of sales and use tax rates for utilities used by manufacturers was a project we worked on for many years. This bill will apply the tax reduction more fairly. *This bill was presented in the Senate Revenue & Taxation Committee on February 1, but a vote is delayed until later in the session. The State Chamber/AIA supports this bill.*

BILLS WE OPPOSE

REPEAL OF ARKANSAS WORKS

HB 1428 by Rep. Josh Miller and Sen. Dan Sullivan seeks to repeal the Arkansas Works Act of 2016 and moves enrollees to the fee-for-service Medicaid Program on and after January 1, 2022. It would also prohibit the Department of Human Services from paying individual premium assistance for plans on the Arkansas Health Insurance Marketplace and require DHS to terminate the coverage of individuals and transition eligible individuals out of the fee-for-service Medicaid Program within 120 days of a reduction in the federal medical assistance percentages of 90% in the year 2020 or any year thereafter. It also would require the DHS, in coordination with the State Insurance Department, to promulgate rules. *This bill has been assigned to the House Public Health, Welfare and Labor Committee. The State Chamber/AIA opposes this bill.*

LOCAL ELECTIONS

HB 1368 by Rep. David Ray and Sen. Bart Hester seeks to set the date for most special elections as the presidential preferential primary date or the general election date in a year in which those elections are held, otherwise on the third Tuesday in May or the Tuesday after the first Monday in November. It also seeks to: require the local board or acting local board to publish the proclamation at least 90 days before the election date, require authorized documents calling for a special election to be filed at least 75 days before the date the special election is to be held, exempt special elections to fill vacancies in office, special runoff elections, local option elections, or special election otherwise provided for by the Arkansas Constitution. It also seeks to provide that an emergency special election may be held on a date other than the dates specified in this act; defines emergency as a substantial change in the interpretation of the law by federal or state courts, circumstances due to fire, flood, tornado, or other natural disaster, circumstances determined by the governing body of the entity requesting the election to be an imminent danger to the public health and safety, and a delay of the special election that would cause a substantial and undue hardship to the governing entity. *This bill was defeated 40 Yea to 49 No on the House floor on February 4. The State Chamber/AIA joins local chambers and other organizations in opposition to this bill.*

PATISAN LOCAL ELECTIONS

HB 1252 by Rep. Clint Penzo and Sen. Bart Hester seeks to require city or town councils to request the county party committees to conduct party primaries for municipal offices with a new resolution for each forthcoming election year. *This bill has been assigned to the House City, County & Local committee.* The State Chamber/AIA joins others in opposition to this bill.

FREEDOM OF INFORMATION ACT EXPANSION

SB 195 by Sen. Dan Sullivan seeks to extend the entities subject to Freedom of Information Act to include those whose primary purpose is providing direct support to a governmental agency or public entity financially or with labor if the support provided has a value of \$1 million or more. *This bill awaits consideration in the Senate State Agencies Committee.* This bill as written is overly broad and has the potential to negatively impact many businesses that do business with government entities. The State Chamber/AIA opposes this bill.

SB 208 by Sen. Dan Sullivan seeks to redefine a 'meeting' for the purposes of the Freedom of Information Act as a gathering of two or more persons in which any matter relating to a public entity is discussed in person, by telephone, electronically or by other means of communication. This includes private entities that are supported wholly or in part by public funds, engaged in activities that would normally be provided by governmental entities or be provided by governmental entities in the absence of the private entity. *This bill awaits consideration in the Senate State Agencies Committee.* The State Chamber/AIA opposes this bill.

HYBRID AUTO REGISTRATION FEE

SB 117 by Sen. Mark Johnson seeks to repeal the \$100 additional registration fee for hybrid vehicles. This bill was recently amended to add multiple sponsors and modify the definition of "electric vehicle."

SB 225 by Sen. Blake Johnson seeks to reduce the fee for registering a hybrid vehicle from \$100 to \$50. Both bills would retain the additional \$200 additional registration fee requirement for electric vehicles.

Both bills await consideration in the Senate Transportation, Technology & Legislative Affairs Committee.

The additional fees addressed by these bills were passed in the 2019 session as part of the highway funding package that also raised the gas tax. The revenue from the additional \$100 hybrid registration fee is currently projected to raise \$2.2 million annually. In addition to providing revenue for the highway funding package, these new registration fees were also intended to create fairness between the increased fuel taxes traditional vehicles are paying and the hybrid and electric vehicles that use the roads too but pay less or no fuel taxes.

The State Chamber/AIA was a major supporter of the 2019 highway package and therefore opposes **SB 117** and **SB 225**.

STATE CHAMBER/AIA BILL TRACKING

Total Bills Filed: 724 | New Bills Filed: 1 | House 0 – Senate 1
Bills added to State Chamber/AIA Tracking: 1 | Total Tracked Bills: 242

To see all tracked bills saved by category, click [here](#).

LEGISLATIVE SESSION INFORMATION

To view schedules, calendars, bill information and legislator information, click [here](#).

To view the statement regarding Capitol access and committee attendance, click [here](#).

Legislative Message Center

House of Representatives: 501-682-6211
Senate: 501-682-2902

STATE CHAMBER/AIA INFORMATION

2021 LEGISLATIVE AGENDA

To view the State Chamber/AIA's legislative agenda, click [here](#).

BILL SCORING

Floor votes on bills that address issues in our Legislative Agenda and/or are discussed in a Daily Legislative Update are subject to being scored.

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