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93rd General Assembly Friday, Feb. 26, 2021 – Session Day 46

TODAY AT THE CAPITOL

The House and Senate are in recess until 1 p.m. Monday.

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

YESTERDAY AT THE CAPITOL

***WORKERS COMPENSATION**^

HB 1488 by Rep. Justin Gonzales and Sen. Ben Gilmore is designed to allow an employee to make a claim under workers' compensation for COVID-19 if the employee proves it is a workplace exposure. This provides protection for employers against workers' compensation claims becoming tort claims simply because the employer knows exposure to COVID-19 is possible, likely, or certain. Workers' Compensation is the exclusive remedy for workers injured on the job in Arkansas, which means that they cannot sue their employers in court for on-the-job injuries. The Arkansas Supreme Court has ruled that intentional acts by the employer are exempt from the exclusive remedy doctrine, allowing employees to sue employers in court for intentional acts.

HB 1488 will do two things: 1) Clarify that employees can make a workers' compensation claim for COVID-19 illness if the employee proves that it was a workplace exposure that led to the illness. Current law is unclear as to whether COVID-19 can be a recoverable injury, and 2) Clarify that requiring an employee to perform employment services when the employer has knowledge that exposure to COVID-19 is possible, likely, or certain is not intentional conduct that removes an employer from the protections of the exclusive remedy doctrine of workers' compensation. **HB 1488** will expire on May 1, 2023. That will require the General Assembly to revisit this law in the next regular session, evaluate the status of COVID-19 and decide whether to renew it, let it expire or modify and extend it. The State Chamber/AIA supports this bill.

MEDICAL ETHICS^

SB 289 by Sen. Kim Hammer and Rep. Brandt Smith seeks to ensure a right of conscience for all healthcare institutions, healthcare payers and medical practitioners, prohibiting discrimination based on medical decisions made due to religious, moral, ethical or philosophical principles with limited exceptions.

This bill was defeated in the House Public Health, Welfare and Labor Committee. It is likely to come up again and amendments are being discussed.

The State Chamber/AIA opposes this bill.

***PPP INCOME TAX EXEMPTION**^

HB 1361 by Rep. Les Eaves and Sen. Jonathan Dismang

Was approved 33 to 0 by the Senate.

The State Chamber Supports.

***UNEMPLOYMENT INSURANCE EXPERIENCE FORGIVENESS[^]**

HB 1212 by Rep. Jack Ladyman and Sen. Missy Irvin

The House concurred in Senate amendments and the Governor has signed into law.

The State Chamber Supports.

COVID LIABILITY PROTECTION FOR HEALTHCARE WORKERS

HB 1521 by Rep. Austin McCollum and Sen. Ben Gilmore will provide some level of protection against COVID-19 personal injury claims against healthcare workers for any damages, injuries, or death caused by or resulting from COVID-19 as follows. A healthcare worker is protected if the alleged act or omission occurs as a result of a good faith effort of the healthcare provider to provide a healthcare service for the diagnosis, treatment, cure, mitigation, or prevention of COVID-19, and the injury was the direct result of the healthcare provider's providing a healthcare service to a patient for the treatment and mitigation of COVID-19 or its symptoms. The protection will not apply to an act or omission that is willful, reckless, or intentional misconduct. This bill will expire on May 1, 2023, which will require the General Assembly to revisit this law in the next regular session, evaluate the status of COVID-19 and decide whether to renew it, let it expire or modify and extend it.

This bill received a Do Pass recommendation from the House Public Health, Welfare and Labor Committee.

The State Chamber/AIA supports HB 1521.

NEXT WEEK AT THE CAPITOL

***FEDERAL INCOME TAX SAVINGS FOR PASSTHROUGH ENTITIES**

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 is expected to be considered March 4 in the House Revenue and Taxation Committee

This is a State Chamber/AIA Priority bill we support.

***CREATION OF INDEPENDENT TAX APPEALS COMMISSION**

HB 1468 by Rep. Joe Jett and Sen. Blake Johnson would create the Independent Tax Appeals Commission within the Department of the Inspector General to resolve disputes between taxpayers and the Department of Finance and Administration. If adopted, it would: a) Set the membership, selected from a pool of candidates recommended by various entities or officials, each required to be licensed to practice law or certified public accountants, b) Set regulations for members, including a limit of two terms of nine years each and salaries comparable to those of state district court judges, c) Authorize various employees, including a staff attorney and accountant, d) Authorize the Commission to issue refunds and alter or remedy actions by the Department and take other appropriate action, e) Define the limits of the Commission's jurisdiction, set procedures, including for pleadings, hearings, decisions, and judicial relief of decisions, f) Provide that decisions of the Commission have the same effect and are enforced in the same manner as a decision of a circuit court and g) Require the Tax Appeals Commission to file the final rules with the Secretary of State by December 1, 2022.

This bill is expected to be considered on March 9 in the House Revenue & Taxation Committee.

This is a State Chamber/AIA Priority bill, which we support.

***PHASE OUT OF SOFT DRINK TAX**

HB 1546 by Rep. Lanny Fite and Sen. David Wallace seeks to sunset the Soft Drink Tax

Act by 2025 and distributes additional funds to offset the effect of phasing out the tax on the Arkansas Medicaid Program Trust Fund. Phase out begins tax year 2023. The bill provides for transfer of funds to the Arkansas Medicaid Program Trust Fund: for the fiscal year beginning July 1, 2022, \$4,108,00; 2023, \$16,022,000; for 2024, \$30,811,000; for 2025 and onward, \$39,438,000.

This bill is likely to be considered in the House Revenue & Taxation Committee next week. The State Chamber/AIA supports this bill.

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 was amended and is expected to be considered next week or the week after by the House Judiciary Committee.

This is a State Chamber/AIA Priority bill we support.

COVID LIABILITY PROTECTION FOR BUSINESSES

HB 1487 by Rep. Justin Gonzales and Sen. Ben Gilmore will provide some level of protection against COVID-19 personal injury claims against businesses for any claims for damages, injuries, or death caused by or resulting from exposure to COVID-19 as follows: A business or its agent are immune from civil liability for damages or injuries caused by or resulting from exposure of an individual to COVID-19 on the business premises owned or operated by the person or during an activity managed by the person. The immunity from civil liability will not apply to willful, reckless, or intentional misconduct resulting in injury or damages to another person. It is presumed that a business or its agent is not committing willful, reckless, or intentional misconduct if the business or its agent are substantially complying with health and safety directives or guidelines issued by the Governor, the Secretary of the Department of Health, the Centers for Disease Control and Prevention, and the Centers for Medicare & Medicaid Services concerning COVID-19; or are acting in good faith while attempting to comply with health and safety directives or guidelines issued by the Governor or the Secretary concerning COVID-19.

This bill awaits consideration in the House Judiciary Committee.

The State Chamber/AIA supports this bill.

STATUS REPORT:

STATE CHAMBER/AIA PRIORITY AGENDA BILLS | SUPPORTED BILLS | OPPOSED BILLS

To view a list, summary and status of all bills that are part of our Priority Agenda, bills we support and bills we oppose, click [here](#).

* State Chamber/AIA Priority Agenda Bill | ^See Status Report link for bill summaries.

STATE CHAMBER/AIA BILL TRACKING

Total Bills Filed: 979 | New Bills Filed: Senate 11 | House 10

Bills and resolutions added to State Chamber/AIA Tracking: 9 | Total Tracked: 362

To review the list of new bills added to our tracking click [here](#).

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.

State Chamber/AIA Governmental Affairs Team

- Randy Zook, President/CEO
rzook@arkansasstatechamber.com
- Kenny Hall, Executive Vice President
khall@arkansasstatechamber.com
- Andrew Parker, Director of Governmental Affairs
aparker@arkansasstatechamber.com
- Toni Lindsey, Director of Governmental Affairs
tlindsey@arkansasstatechamber.com

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

State Chamber/AIA web site: www.arkansasstatechamber.com

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The Daily Legislative Update is written by Kenny Hall, reviewed by Randy Zook, then 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

STAY CONNECTED



Arkansas State Chamber of Commerce/Associated Industries of Arkansas
1200 W. Capitol Ave., Little Rock, AR 72201
P.O. Box 3645, Little Rock, AR 72203
501-372-2222 | arkansasstatechamber.com