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93rd General Assembly Friday, March 1, 2021 – Session Day 49

TODAY AT THE CAPITOL

The House and Senate will convene at 1 p.m. today.

COMMITTEE MEETINGS

8:30 a.m. – Joint Retirement

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

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

TODAY AT THE CAPITOL

*WORKERS COMPENSATION^A

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.

This bill is on this afternoon's House Calendar.

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

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 is on this afternoon's House Calendar.

The State Chamber/AIA supports HB 1521.

TOMORROW AT THE CAPITOL

***PHASEOUT 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. Phaseout 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, \$4,108,000; 2023, \$16,022,000; for 2024, \$30,811,000; for 2025 and onward, \$39,438,000.

This bill is on the March 2 agenda in the House Revenue & Taxation Committee.

The State Chamber/AIA supports this bill.

UNEMPLOYMENT INSURANCE

HB 1407 AND HB 1409 by Rep. Robin Lundstrum and Sen. Ricky Hill seek to cap the stabilization tax for 2022 (**HB1407**) and cap the wage base at \$10,000 for 2022 (**HB1409**). *These bills are on the "Consent Calendar" in the House Public Health, Welfare and Labor Committee.*

The State Chamber/AIA fully supports these 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 may be considered March 2 by the House Judiciary Committee.

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

COMING SOON 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 9 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.

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.

BILLS WE OPPOSE

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 Feb. 10.

It is likely to come up again and amendments are being discussed.

The State Chamber/AIA opposes this bill.

BILLS WITH CONCERNS

APPRENTICESHIPS AS ALTERNATIVE TO LICENSING

HB 1553 by Rep. Joshua Bryant and Sen. Bart Hester seeks to create the Earn and Learn Act of 2021, requiring a licensing entity to grant a license to persons who have completed an apprenticeship in the licensed occupation or profession and are otherwise qualified. It includes the conditions of passing any necessary examination, paying fees, and not having a disqualifying criminal record. It also seeks to require a) an entity to provide a written explanation to denied applicants explaining the reason for denial, b) a licensing entity to establish a passing score for exams and set a licensing fee that does not exceed the passing score, or fee required under the standard licensing process and c) all licensing entities to promulgate rules necessary to implement the act. It also provides that if an exam or fee is not required for the standard licensing process for a profession, an applicant who completes an apprenticeship is not required to pass an exam or pay a fee and that an apprenticeship is not required to exceed the number of hours required for a profession unless required by federal law. Would become effective on January 1, 2022.

This bill awaits consideration in the House Judiciary Committee.

The State Chamber/AIA hasn't had a chance to visit with sponsors yet and is collecting information from interested parties.

RIGHT TO REPAIR

SB 332 by Sen. Missy Irvin and Rep. Jim Dotson seeks to require the original equipment manufacturer of digital medical equipment to make available to an independent repair

provider for a medical facility or an owner of digital electronic equipment documentation, parts, service tools, etc. Would become effective on January 1, 2022.

This bill have been assigned to the Senate Public Health, Welfare and Labor Committee. The State Chamber/AIA hasn't had a chance to visit with sponsors yet and is gathering information.

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: 982 | New Bills Filed: Senate 0 | House 3

Bills and resolutions added to State Chamber/AIA Tracking: 1 | Total Tracked: 363

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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