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## 93rd General Assembly Thursday, March 4, 2021 – Session Day 53

### TODAY AT THE CAPITOL

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

#### COMMITTEE MEETINGS

7:30 a.m. – Joint Budget Special Language

8:30 a.m. – Joint Budget

9:30 a.m. – House Education | Senate City/County/Local

11:00 a.m. – Senate Transportation

11:30 a.m. – House Communications

2:00 p.m. – House Health, Judiciary and Tax | Senate Insurance/Commerce

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

### TODAY'S BILLS

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

**HB 1209** by Rep. Joe Jett 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 on this afternoon's agenda in the House Revenue and Taxation Committee*

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

#### \*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 is on this afternoon's agenda in the House Judiciary Committee.*

HB 1321 is a State Chamber/AIA Priority bill we support.

#### ARHOME – NEW MEDICAID EXPANSION PROGRAM<sup>A</sup>

SB 410 by Sen. Missy Irvin and Rep. Michelle Gray seeks to create the Arkansas Health and Opportunity for Me Act of 2021 (ARHOME), replacing the Arkansas Works Program for expanded Medicaid coverage. It creates incentives for individuals to gain qualified health insurance premium assistance.

*This bill is on this afternoon's agenda in the Senate Insurance and Commerce Committee.  
The State Chamber/AIA supports SB 410.*

*\* State Chamber/AIA Priority Agenda Bill*

## **YESTERDAY AT THE CAPITOL**

### **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**). *Both bills were passed in the House yesterday, the vote on HB 1407 was 97 to 0 and HB 1409 was 90 to 0.*

The State Chamber/AIA supports HB 1407 and 1409.

### **CONTRACTORS AND PURCHASING**

**SB 260** by Sen. Kim Hammer and Rep. Keith Brooks would prohibit the use of an experience modification factor in a contract for construction services as a means of determining eligibility to participate in the solicitation or to be awarded a contract. *This bill was removed from the Senate Insurance & Commerce Committee's agenda yesterday.*

The State Chamber/AIA opposes SB 260.

## **NEW BILLS**

### **SPRING BREAK**

HCR 1011 by Speaker of the House Rep. Matthew Shepherd and Senate President Pro Tem Sen. Jimmy Hickey provides that the House of Representatives and Senate may recess at the close of business on Tuesday, March 23, 2021, and resume their work on Monday, March 29, 2021.

*This Resolution is on today's House Calendar.*

### **TRAIN LENGTH**

**HB 1631** by Rep. Vivian Flowers and Sen. Linda Chesterfield seeks to set the maximum length of a railroad train operating on a main line or branch line at 8,500 feet subject to administrative penalties imposed by the Department of Transportation. It would also: a) set the penalty as \$500-\$1,000 per foot over the maximum length authorized and not more than \$250,000 if the violation causes death or injury, b) authorize the penalty amount to be negotiated between the company and the Department and provides considerations for the Director of State Highways and Transportation in determining the amount, c) provide that the imposition of penalties will be conducted under the Arkansas Administrative Procedure Act and d) provide that penalties collected will be used by the Department for highway and infrastructure projects and a penalty not promptly paid will be referred to the Attorney General for collection in district court.

*The bill has been assigned to the House Public Transportation Committee.*

### **SPECIAL ELECTION DATES**

**HB 1620** by Rep. Spencer Hawks would set dates for when special elections must be held, including requiring special elections to be held with a primary or general election when possible. It would require a special election to be filed at least 75 days before the election date. It also provides a) that the regulations do not apply to special elections provided for by the Arkansas Constitution, including elections to fill vacancies in office, special runoff elections, and local option elections, b) that an emergency special election may be held on a different date and defines an emergency and c) that listed special elections be held in accordance with the new dates.

*This bill has been assigned to the House State Agencies Committee.*

### **RIGHT TO REPAIR**

**SB 461** by Sen. Trent Garner would require original equipment manufacturers of farm equipment to make available on reasonable terms any documentation, tools, or parts, including software updates, necessary to maintain or repair the equipment. It would prohibit an original equipment manufacturer from intentionally abandoning or disrupting embedded software on older versions of equipment through a planned change or

upgrades to firmware; provide that a violation of this is an unfair and deceptive act as defined by the Deceptive Trade Practices Act, stating that all authority granted to the Attorney General under the Deceptive Trade Practices Act will be available for enforcement. It excludes the following: motor vehicle and equipment manufacturers or a motor vehicle dealer that is acting in the capacity of a motor vehicle manufacturer. It applies to farm equipment sold or in use on or after January 1, 2022 and sets the effective date as on and after January 1, 2022.

*This bill has been assigned to the House Agriculture and Economic Development Committee.*

### **CIVIL EVICTION PROCESS^**

**HB 1563** by Rep. Jimmy Gazaway would establish a civil eviction process, including provisions on notice, complaint requirements, jurisdiction, civil pleadings, etc. and prohibits certain terms and conditions in rental agreements and also creates a duty that the landlord maintain habitable premises.

*This is a 20-page bill filed on February 25 and has seen no action yet. A summary of the bill is in the Status Report linked below.*

Added to the New Bills section today because we are interested in opinions about this bill.

To view a list of all the new bills added to our tracking today, click [here](#).

### **PENDING BILLS WE SUPPORT**

#### **\*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.

*Awaits consideration in the Senate Public Health, Welfare and Labor Committee.*

HB 1488 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., 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.

*Awaits consideration in the Senate Public Health, Welfare and Labor Committee.*

The State Chamber/AIA supports HB 1521.

#### **\*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.

*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.

*This bill awaits consideration in the House Judiciary Committee.*

The State Chamber/AIA supports this bill.

#### **\*EXPANDING EXISTING SALES TAX EXEMPTION FOR PRINTING, EQUIPMENT & MACHINERY, CUSTOM MANUFACTURING^**

**HB 1596** by Rep. Joe Jett and Sen. Jonathan Dismang seeks to expand the existing sales

and use tax manufacturing exemptions definition.

*This bill has been assigned to the House Revenue & Taxation Committee.*

HB 1596 is a State Chamber/AIA Priority Agenda bill that we support.

#### **\*INCOME TAX FILING DEADLINE CHANGE^**

**SB 420** by Sen. Jonathan Dismang and Rep. Joe Jett will set the deadline for state income tax returns following application for a federal extension to one month after the federal deadline for tax returns that have been granted federal extension.

*This bill has been assigned to the Senate Revenue & Taxation Committee.*

SB 420 is a State Chamber/AIA Priority Agenda bill that 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, \$4,108,000; 2023, \$16,022,000; for 2024, \$30,811,000; for 2025 and onward, \$39,438,000.

*Testimony and member comments were heard on this bill on March 2 in the House Revenue & Taxation Committee. A vote will occur in the future.*

The State Chamber/AIA supports this bill.

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

### **BILLS WITH CONCERNS**

**We have been contacted about concerns on the following bills and in some cases about support. We would like to hear more information about each bill.**

#### **EMINENT DOMAIN – STATE AGENCIES**

**SB 334** by Sen. Bob Ballinger and Rep. Justin Gonzales would define abandoned property as commercial or residential property that has not been occupied or used for at least 1 year, has been cited for violations of housing, building, or fire codes that have not been remedied within 180 days from the date of citation, and has accrued at least 2 years of delinquent property taxes. It also would provide that a state agency must request an administrative warrant from a judge or magistrate to gain access to inspect a building on a property; provides that the judge may provide evidence of violation to the state agencies, of which the agency can then use as probable cause. Finally it would allow for the owner of private property to bring a cause of action in circuit court to determine if his or her private property is lawfully being taken; provides that the burden of proof is borne by the state agency.

*This bill received a Do Pass recommendation yesterday from the Senate Judiciary Committee and is on today's Senate Calendar to adopt an amendment.*

#### **EMINENT DOMAIN – LOCAL GOVERNMENTS**

**SB 335** by Sen. Bob Ballinger and Rep. Justin Gonzales seeks to place restrictions on the use of eminent domain by local governments and introduce numerous definitions to existing relevant laws. It would define abandoned property as commercial or residential property that has not been occupied or used for at least 1 year, has been cited for violations of housing, building, or fire codes that have not been remedied within 180 days from the date of citation, and has accrued at least 2 years of delinquent property taxes. It also would provide that a local government must request an administrative warrant from a judge or magistrate to gain access to inspect a building on a property; provides that the judge may provide evidence of violation to the local government, of which the agency can then use as probable cause. Finally it would allow the owner of private property to bring a cause of action in circuit court to determine if his or her private property is lawfully being taken; provides that the burden of proof is borne by the local government.

*This bill received a Do Pass recommendation yesterday from the Senate Judiciary Committee and is on today's Senate Calendar to adopt an amendment.*

#### **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.  
*This bill awaits consideration in the House Judiciary Committee.*

### **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 has been assigned to the Senate Public Health, Welfare and Labor Committee.*

### **SHIELDED OUTDOOR LIGHTING ACT CHANGES^**

**HB 1584** by Rep. Stephen Meeks seeks to amend the Shielded Outdoor Lighting Act, renaming it the Arkansas Nighttime Environment Protection Act.

*This bill has been assigned to the House Public Health, Welfare and Labor Committee.*

### **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, bills we oppose and bills we're watching, click [here](#).

### **STATE CHAMBER/AIA BILL TRACKING**

Total Bills Filed: 1098 | New Bills Filed: Senate 8 | House 22

Bills and resolutions added to State Chamber/AIA Tracking: 17 | Total Tracked: 394

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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*The Daily Legislative Update is written by Kenny Hall, reviewed by Randy Zook, then edited and distributed by Jeff Thatcher.*



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