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93rd General Assembly
Monday, March 8, 2021 – Session Day 57

***** CALL TO ACTION *****

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

Please ask your State Representative to support HB 1209. This bill is on this afternoon's House Calendar but is expected to be considered on the House floor Tuesday afternoon. It will require a 75% majority vote to pass.

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.

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%, which would allow the Arkansas taxes paid to 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 received a Do Pass recommendation from the House Revenue and Taxation Committee on March 4.

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

TODAY AT THE CAPITOL

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

Committee Meetings

8:30 a.m. – Joint Retirement

9:30 a.m. – House State Agencies

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

BILLS WITH ACTION EXPECTED TODAY

***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 today's House Calendar for adoption of an amendment.

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

ARHOME – NEW MEDICAID EXPANSION PROGRAM

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 Senate floor for adoption of an amendment.

The State Chamber/AIA supports SB 410.

CHANGES TO ADFA

SB 471 by Sen. Dan Sullivan seeks to change the board composition and appointment process of the Arkansas Development Finance Authority.

This bill is on today's Senate Calendar to be withdrawn.

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; it also provides that the burden of proof is borne by the state agency.

This bill is on this afternoon's Senate Calendar.

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 is on this afternoon's Senate Calendar.

** State Chamber/AIA Priority Agenda Bill*

NEW BILLS

Five bills were filed Friday by Sen. Jonathan Dismang that were added to our tracking. These bills complete filing of the State Chamber/AIA Priority Agenda tax bills for 2021.

***ECONOMIC DEVELOPMENT TAX CREDITS**

SB 480 would allow nonresidents and part-year residents to deduct economic development tax credits after they multiply their amount owed, to receive dollar-for-dollar tax credits. Allows passthrough entities to apply those credits for a composite tax return. Specifies the following economic development programs for deduction of income tax credits allowed: Advantage Arkansas; Affordable Neighborhood Housing Tax Credit Act of 1997; Apprenticeship Program; Arkansas Economic Development Act of 1995; Arkansas Enterprise Zone Act of 1993; Arkansas Existing Workforce Training Act of 1995; Arkansas Historic Rehabilitation Income Tax Credit Act; Arkansas Private Wetland and Riparian Zone Creation, Restoration, and Conservation Tax Credits Act; Arkansas Public Roads Improvements Credit Act; Arkansas Tourism Development Act; ArkPlus; Biodiesel Incentive Act; coal mining, producing, and extracting credit; donation or sale of equipment to educational institutions credit; employee tuition reimbursement credit; employer-provided childcare credit; Equity Investment Incentive Act of 2007; Family Savings Initiative Act; low-income housing credit; qualified research expenditures credit; research

and development credits; research park authority credit; rice straw credit; targeted business payroll credit; venture Capital Investment Act of 2001; waste reduction, reuse, or recycling equipment credit; and the Water Resource Conservation and Development Incentives Act. The effective date is January 1, 2020.

***PUBLIC ROADS IMPROVEMENT TAX CREDIT**

SB 481 would allow 100 percent of the public roads improvements tax credit to be taken in a single year, instead of limiting it to 50 percent. It would extend the carry-forward period for the credit from 3 to 10 years. The effective date would be January 1, 2020.

***DESTINATION SOURCING OF SALES TO U.S. GOVERNMENT (PARTIAL THROWBACK REPEAL)**

SB 482 would provide for destination sourcing, instead of origin-based sourcing, for sales to the U.S. Government for purposes of income tax apportionment. The effective date would be January 1, 2020.

***THROWBACK RULE REPEALED**

SB 483 would repeal the throwback rule for purposes of tax apportionment, for property shipped from Arkansas by an out-of-state taxpayer or sold to the U.S. Government. The effective date would be January 1, 2020.

***NONRESIDENT INCOME TAX**

SB 484 provides that a nonresident's work performed both inside and outside of the state is taxable only on the portion of the income allocated to work performed in-state. It exempts nonresidents' income if all of the following apply: compensation is paid for duties performed less than 30 days of in-state work in a year, duties were performed in multiple states during the calendar year, the compensation is not paid for duties in the individual's capacity as a professional athlete, entertainer, public figure, or qualified production employee; and either the individual's state or residence provides a similar income tax exemption or does not impose individual income tax. It provides a) if an individual exceeds the 30-day threshold for tax exemption, the employer will be required to withhold and remit taxes for every day in that calendar year, including the first 30 days and b) prohibits the Department of Finance and Administration from collecting penalties for failing to withhold or deduct income taxes when determining whether or not withholding was required if the employer maintains a time and attendance system specifically designed to allocate employee wages, and the employer relied on this data; or if the employer relied on either its own records, or the employee's reasonable determination of the time the employee expected to spend performing employment duties in this state. It would exempt employee travel from being considered in determining the location of an employee's performance of duties. It sets the effective date of Sections 2 and 3 of the act for the tax years beginning on or after January 1, 2021, and Section 4 of the act on the first day of the calendar month following the effective date of the act.

BILLS IN COMMITTEE TODAY

CONSTITUTIONAL AMENDMENT REFERRALS

The House State Agencies Committee will begin reviewing the House Joint Resolutions today. No votes will be taken. The Joint Resolutions that will heard today are:

HJR 1001 – authorize the legislature to call a special session.

HJR 1006 – create a petition process for a special election to recall an elected official.

HJR 1009 – would remove the State Highway Commission's authority to administer the Highway Department and create a Secretary of Transportation.

HJR 1015 – would authorize the General Assembly to prescribe legal rules by a three-fifths vote.

The view a list of all Joint Resolutions, click [here](#).

BILLS 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.

This bill was expected to be considered on March 9 in the House Revenue & Taxation Committee, but that meeting has been cancelled.

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

***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 awaits consideration in the House Revenue & Taxation Committee.

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

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

The State Chamber/AIA supports HB 1521.

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.

This bill awaits consideration in the House Judiciary Committee.

The State Chamber/AIA supports this bill.

***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 distribute additional funds to offset the effect of phasing out the tax on the Arkansas Medicaid Program Trust Fund. Phase out would begin 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.

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*

BILLS WITH CONCERNS

We have been contacted about concerns on the following bills and in some cases about support.

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. It would become effective on January 1, 2022.

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

SB 461 by Sen. Trent Garner seeks to require an original equipment manufacturer 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 and provides that 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 would apply to farm equipment sold or in use on or after January 1, 2022.

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

SCHOOL START DATE

HB 1237 by Rep. Mark Lowery would authorize a school district's board of directors to implement an alternate school calendar and sets regulations on both alternate and regular calendars. It would require the first day of school for any district to be not earlier than the Monday before Labor Day and removes limits on the latest day school can start. It addresses multiple specifics related to the school year, instruction hours, etc.

This bill has been assigned to the House Education 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.

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 create a duty that the landlord maintain habitable premises.

This 20-page bill has been in the House Insurance and Committee since it was assigned to committee after being filed on February 25.

STATE CHAMBER/AIA BILL TRACKING

Total Bills Filed: 1144 | New Bills Filed: Senate 10 | House 0

Bills and resolutions added to State Chamber/AIA Tracking: 5 | Total Tracked: 415

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