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93rd General Assembly Thursday, March 11, 2021 – Session Day 60

TODAY AT THE CAPITOL

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

Committee Meetings

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

8:30 a.m. – Joint Budget

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

11:00 a.m. – Senate Transportation

11:30 a.m. – Arkansas Legislative Council - Executive Subcommittee

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

TODAY'S BILLS

FEDERAL INCOME TAX SAVINGS FOR PASSTHROUGH ENTITIES | State Chamber/AIA Priority Agenda Bill

This bill received a Do Pass recommendation yesterday from the Senate Revenue & Taxation Committee and is on this afternoon's Senate Calendar. **Please ask your State Senator to support HB 1209.**

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 percent, which would allow the Arkansas taxes paid to be 100 percent 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 needs a 75 percent majority vote to pass.**

WORKERS COMPENSATION | State Chamber/AIA Priority Agenda Bill

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.

This bill received a Do Pass recommendation yesterday from the Senate Public Health, Welfare and Labor Committee and is on this afternoon's Senate Calendar.

The State Chamber/AIA supports HB 1488.

UNEMPLOYMENT INSURANCE - State Chamber/AIA Priority Agenda Bill

HB 1407 AND HB 1409 by Rep. Robin Lundstrum and Sen. Ricky Hill seek to cap the unemployment insurance stabilization tax for 2022 (**HB1407**) and cap the wage base (amount of each employee's wages subject to UI tax) at \$10,000 for 2022 (**HB1409**).

These bills received a Do Pass recommendations yesterday from the Senate Public Health, Welfare and Labor Committee and are on this afternoon's Senate Calendar.

The State Chamber/AIA supports HB 1407 and 1409.

UTILITY RATE REVIEW

SB 489 by Sen. Breanne Davis and Rep. John Maddox seeks to make various changes to the Formula Rate Review Act, adding regulatory parameters to the Public Service Commission's electric utility rate review process. Specific provisions include:

a) Prohibits the Arkansas Public Service Commission from adjusting rates for an electric utility under 23-4-422 (e) or (f) if the utility's class of customers with the highest level of consumption per customer has rates that include a demand component of 7,000,000 Mwh; adds other requirements for the PSC in ensuring that the revenue received for the historical year will be composed of prior formula rate review test period changes in revenue.

b) Requires an extension of the five-year term of a formula rate review for utilities meeting the above usage level to include an adjustment in cost allocation.

c) Prohibits the Arkansas Public Service Commission from approving any adjustments to the formula rate review filings that are inconsistent with the findings in the commission's order on the public utility's application from general change in rates or charges.

d) Provides that for a public utility's nonresidential classes of customers that have rates with a demand component other than the class of customers with the highest level of consumption, the public utility will establish a maximum level of consumption or demand to be eligible for service as part of those classes that is lower than the minimum level of consumption than customers with the highest level.

e) Requires the Arkansas Public Service Commission to adjust the rate design to the class of customers with the highest level of consumption per customer, which has rates with a demand component in an equal annual adjustment over the first three years of the five-year term of an extension; requires the public utility to file resulting rate schedules annually as part of any formula rate review compliance filing until the adjustment is fully implemented.

f) Requires the debt-to-equity ratio, for the purpose of setting rates, to be fixed at the public utility's actual debt-to-equity ratio reflected in the commission order issued on December 11, 2020.

g) Requires public utilities to support the purpose for and level of its projected year investments with projections based on historical averages instead of basing projections on the utility's corporate budget.

h) Authorizes public utilities to file an application for a change in rates at any time during a five-year extension of the term of a formula rate review mechanics.

i) Applies to any formula rate review approved and in effect on or before March 15, 2021.

This bill is on this afternoon's Senate Insurance and Commerce Committee agenda.

HB 1662 by Rep. John Maddox and Sen. Breanne Davis is identical to **SB 489** described above.

This bill received a Do Pass recommendation from the House Insurance and Commerce Committee yesterday and is on this afternoon's House Calendar.

The State Chamber/AIA supports these bills.

COVID LIABILITY PROTECTION FOR BUSINESSES

HB 1487 by Rep. Justin Gonzales and Sen. Ben Gilmore would provide an entity or individual immunity from civil liability for damages or injuries caused by exposure to COVID-19 on business premises or during an activity they managed. This bill applies to claims in state or federal court or before the Arkansas State Claims Commission. It excludes willful, reckless, or intentional misconduct and workers' compensation benefits. It

presumes good faith conduct if they are substantially complying or attempting to comply with issued guidelines. This is set to expire May 1, 2023.

This bill is on this afternoon's agenda in the House Judiciary Committee.

The State Chamber/AIA supports HB 1487.

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.

This bill received a Do Pass recommendation yesterday from the Senate Public Health, Welfare and Labor Committee and is on this afternoon's Senate Calendar.

The State Chamber/AIA supports HB 1521.

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 is on this afternoon's agenda in the House Public Health, Welfare and Labor Committee.

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 is on this afternoon's agenda in the House Public Health, Welfare and Labor Committee.

SCHOOL START DATE

HB 1237 by Rep. Mark Lowery would set the school start day no earlier than the Monday before Labor Day. It addresses school calendars and other issues affected by the later school start date.

This bill is on this morning's agenda in the House Education Committee.

STATE CHAMBER/AIA PRIORITY AGENDA BILLS

TO VIEW A BILL SUMMARY AND LAST THREE ACTIONS ON 19 BILLS THAT ARE PART OF THE STATE CHAMBER/AIA PRIORITY AGENDA, [CLICK HERE](#).

BILLS WE OPPOSE

OCCUPATIONAL LICENSING

HB 1667 by Rep. Tony Furman would require all occupational licensing entities to recognize licenses from other states and grant licenses based on work experience in other states if that state does not require a license. The bill defines "applicant" as an individual seeking an occupational or professional license. We hosted a meeting of our Occupational Licensing Working Group yesterday afternoon and almost 50 people participated. The group was unanimous in its opposition to this bill.

The group agreed that this bill will apply to all professional licenses as well as the trade licenses. This issue came up a few years ago by a bill that was viewed by what became our Working Group as essentially the end of occupational licensing in Arkansas. Since then, the Governor created the Red Tape Reduction Working Group, which spent almost two years studying the licensing laws and rules in Arkansas. The Occupational Licensing Advisory Group (OLAG) was formed to provide information to the Red Tape Group. The Red Tape group's charter expired but a subsequent group was formed to which OLAG continues to report its work. OLAG consists of most of the licensing agencies in the state, along with some interest groups that include the State Chamber of Commerce. Every agency in OLAG has reviewed their licensing and reported on updates. A subsequent Act requires a set number of agencies to report to the legislature every year. So, our group views **HB 1667** as an attempt to undermine the hard work done by two previous General Assemblies, most state licensing authorities and many business interests.

In our meeting yesterday, some of the concerns discussed included: this bill would put apprenticeship programs in Arkansas at a disadvantage, it would create a big administrative burden for the state and whatever state in the country that has the worst licensing laws could become the effectual law in Arkansas. Professional groups are extremely concerned. If a person cannot qualify for a professional or occupational license in Arkansas, all that is required is to obtain a license in another state with less rigorous standards, hold that license for a year, and then apply for a license in Arkansas. Arkansas licensing authorities would be required to accept the licenses from any state irrespective of the qualifications for the license in that state. Some licensing authorities collect fees for bonding or loss pools, which would not apply to people coming in with an out-of-state license. Two pieces of legislation from 2019 set up a good system of licensing reciprocity laws in Arkansas and rules were developed to deal with states that did not require licenses.

One of the most serious concerns about this bill is it would require Arkansas to grant a license to someone who has worked for three years in an occupation in another state that does not have a licensing requirement. Without a thorough study of the laws in other states for "on-the-job training" in various occupations, we cannot know which occupations Arkansas would be throwing open to the untrained. There is no definition for what is required to satisfy the requirement for having "worked" in the profession or occupation.

We are collecting a list of businesses and organizations that are opposed to **HB 1667**. If you'd like to add your name to the list, please let us know.

This bill awaits consideration in the House Public Health, Welfare and Labor Committee. Based upon our meeting, the State Chamber/AIA sees this as a very broad and very dangerous bill that we oppose.

YESTERDAY AT THE CAPITOL

CLOSING OF AEDC CHINA OFFICE

SB 252 by Sen. Trent Garner would prohibit the Arkansas Economic Development Commission from establishing or maintaining an office in China and close any existing offices in China as of the effective date of the act.

This bill passed the Senate yesterday by a vote of 19 to 8 and has been assigned to the House Agriculture, Forestry and Economic Development Committee.

The State Chamber/AIA opposes this bill.

STATE CHAMBER/AIA BILL TRACKING

Total Bills Filed: 1224 | New Bills Filed: Senate 11 | House 11

Bills and resolutions added to State Chamber/AIA Tracking: 14 | Total Tracked: 451

To view a list of 14 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.

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