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93rd General Assembly Wednesday, March 24, 2021 – Session Day 73

TODAY AT THE CAPITOL

The House and Senate are in recess until 1 p.m. Monday, March 29.

***** CALL TO ACTION – PLEASE CONTACT YOUR SENATOR BEFORE MONDAY *****

WORKERS' COMPENSATION – State Chamber Priority Agenda Bill

SB 530 by Sen. Dave Wallace and Rep. Jack Ladyman *was not considered yesterday on the Senate floor, but we hope it will run on the Senate floor Monday afternoon.*

Please ask your State Senator to vote FOR SB 530.

If your business is unfortunate enough to have a serious workers' compensation claim that pays out a large amount of medical and disability benefits, it is **most likely that your business will see an increase in your workers' compensation costs**. This will occur despite a statewide recommendation to lower workers' compensation rates across the state. Each individual company stands on its own regarding their own claims.

SB 530 seeks to re-establish the right of subrogation in workers' compensation claims. Subrogation is the right held by insurance carriers to legally seek recovery from a third party that caused a loss to their insured. This common insurance procedure is authorized in the workers' compensation laws but was taken away by a judge's decision. The decision of a single judge took away part of a law that had been voted on by the people and updated by the General Assembly.

Subrogation puts the burden on the party at fault and **in workers' comp cases prevents a double recovery by the claimant/employee.**

The judicial decision that blocked the use of subrogation in workers' comp applied the common law principle of "made whole" to statutory coverage. This decision made **Arkansas one of only six states in the country that apply the "made whole" doctrine. EVEN CALIFORNIA ALLOWS SUBROGATION.**

SB 530 sets the maximum amount of subrogation a workers' compensation carrier can collect from a third-party settlement at 50 percent or the amount they paid.

The Arkansas Court of Appeals has stated the **right of subrogation under Arkansas law**, in part, is to "**protect the rights of the workers' compensation carrier and the employee.**" *Wentworth v. Sparks Regl. Med. Ctr.* It is impossible to conceive of a procedure or penalty more punitive toward assertion of the carrier's right of subrogation or more of a deterrent to protecting the interests of Arkansas' small businesses in keeping their workers' compensation premiums and costs of doing business down.

SB 530 requires a two-thirds majority to pass.

It is vitally important that Senators hear from the business community. Simply ask them to **Vote Yes on SB 530; it's important to business.**

NEW BILLS

LIMITED LIABILITY COMPANY ACT

SB 601 by Senator Jonathan Dismang would create the Uniform Limited Liability Company Act and repeal the Small Business Entity Tax Pass Through Act. This is a 164-page bill.

The backers of this bill are interested in feedback. If you have any comments, please let us know.

YESTERDAY'S BILLS

MEDICAID EXPANSION

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

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

We support this bill.

MAXIMUM TRAIN LENGTHS

HB 1631 by Rep. Vivian Flowers 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.

This bill failed yesterday morning in the House Transportation Committee.

The State Chamber/AIA opposes this bill.

PROHIBIT MANDATORY COVID IMMUNIZATIONS OR VACCINES

HB 1547 by Rep. Robin Lundstrum and Sen. Breanne Davis proposes an Act to Prohibit Mandatory 2019 (COVID-19) Immunizations or Vaccines for students and employees.

This amended bill was not heard yesterday in the House Public Health, Welfare and Labor Committee.

We oppose this bill.

TAX CREDIT FOR HIRING FORMER OFFENDERS

HB 1719 by Rep. Robin Lundstrum would allow an income tax credit for employers of former offenders for each offender employed for at least 40 hours per week at pay that is at or above the state minimum wage. It includes former offenders incarcerated for felonies and released within a year prior to the date they were hired. It authorizes funds provided by the credit exceeding tax liability to be refunded to the taxpayer. The credit is calculated at \$3,000 after one year of consecutive employment, \$2,000 after 2 years, and \$1,000 after 3 years. It would require a) the taxpayer to register with the Division of Workforce Services as a participant in the program, enroll the offender in their health insurance plan after 24 months of employment, if provided, and ensure random drug testing and b) the offender to register with the Division as a participant, enroll in the health insurance program offered through the Arkansas Works Program, and agree to random drug testing. *No action was taken on this bill yesterday by the House Revenue & Taxation Committee.* This is a good bill.

INDEXING WEEKS OF UNEMPLOYMENT INSURANCE

HB1676 by Rep. Austin McCollum seeks to scale back the duration of unemployment compensation benefits in increments as indexed to the current unemployment rate. It would set the lower cap at 12 times the weekly benefit amount at or below 5.5 percent unemployment and sets the upper cap at 16 times the weekly benefit at more than 7 percent unemployment. The effective date would be January 1, 2022.

No action was taken on this bill yesterday in the House Public Health, Welfare and Labor Committee.

This is a concept that is used in a few states. We have plans to consider this for the 2023 session. The current UI system is very old and most likely cannot handle this type of

change before it is upgraded. We have discussed upgrading the system with DWS.

CHANGES TO ADFA BOARD

SB 475 seeks to change the board composition and appointment process of the Arkansas Development Finance Authority and require house-related tax credits to be awarded equally among the four congressional districts each year.

No action was taken on this bill yesterday by the Senate.

INCOME TAX REDUCTION

HB 1403 by Rep. John Maddox seeks to adjust the rate of taxation for the top two income brackets. It would change the rates for incomes \$22,200 to \$79,300 from 5.9 to 5.8 percent. And change the rates for those earning over \$79,300 to 2 percent on the first \$4,000 of income; 4 percent on \$4,001 to \$8,000 of income; and 5.8 percent on income of \$8,001 and above. The effective date would be January 1, 2022.

No action was taken on this bill yesterday by the House Revenue & Taxation 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.

No action was taken on this bill yesterday by the Senate.

SESSION EXTENSION

HCR 1015 by House Speaker Matthew Shepherd and Senate President Jimmy Hickey would extend the Regular Session from a targeted recess date of April 30 until the body is able to complete work on congressional redistricting, with sine die adjournment to follow.

The legislature needs census data to accomplish congressional redistricting. That data is not expected to be available until September. This Concurrent Resolution would allow the General Assembly to enter an extended recess. During the recess, Interim Committees would meet. It also includes provisions to set the effective date of bills without an emergency clause before *sine die* adjournment.

This resolution passed the Senate yesterday 29 to 4.

STATE CHAMBER/AIA PRIORITY AGENDA BILLS

INDEPENDENT TAX APPEALS COMMISSION-State Chamber/AIA Priority Agenda bill

HB 1468 by Rep. Joe Jett and Sen. Jonathan Dismang is our bill that seeks to create an Independent Tax Appeals Commission and a technical companion bill, **HB 1705**.

These bills awaits consideration in the Senate Revenue and Taxation Committee.

The State Chamber/AIA supports **HB 1468 & HB 1705**.

To view a summary and the status of bills from the State Chamber/AIA's Priority Agenda, click [here](#).

BILLS WE OPPOSE

PHARMACY BENEFITS MANAGEMENT

HB 1804 by Rep. Brian Evans and Sen. Ron Caldwell seeks to make changes to the Arkansas Pharmacy Benefits Manager Licensure Act.

This bill places self-insured groups under the provisions of the state PBM Licensure Act, a law that established a single rate system for every pharmacy in the state regardless of the quality of services provided. If passed:

Pharmacists will receive a guaranteed payment (NADAC or wholesale acquisition cost) for every drug dispensed at that pharmacy (brands, generics, and high-cost specialty drugs) for all self-insured consumers. Thus, the price paid is based on state-mandated minimums determination, not a competitive marketplace. Without competition, prices go up.

It will expand price regulation to self-insured employers/groups; and expand the pricing

and revenue mandate for one segment (Pharmacy) of the healthcare delivery system.

All self-insured employers would be required to share proprietary contract information including rebates received and distributed to the employer/payor; detailed itemized payor payment data to a PBM; detailed itemized data paid by the PBM for pharmacists' services.

HB 1804 expands onerous reporting requirements to all self-insured groups. Currently, these rules apply to insurance carriers and PBMs for their fully insured blocks of business.

This bill would prohibit self-insured groups from negotiating contracts to establish specialized pharmacy networks that are created to control costs for their employees.

This bill is an intrusion into private contracts between large employers and entities providing pharmacy services and allows state oversight of those private contracts.

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

OCCUPATIONAL LICENSING

HB 1667 by Rep. Tony Furman would require all occupational licensing entities to recognize licenses from other states. A provision related to granting licenses to people coming from other states who do not have licensing has been removed by a sponsor's amendment. The bill defines "applicant" as an individual seeking an occupational or professional license.

This bill awaits consideration in the House Public Health, Welfare and Labor Committee. The State Chamber/AIA opposes this very broad bill.

BILL OF INTEREST

FIREARMS IN VEHICLES ON BUSINESS PARKING LOTS

SB 555 by Sen. Alan Clark seeks to repeal and replace the subsection that prohibits employers from restricting the storage of firearms inside employees' cars in an employer parking lot. It exempts parking lots owned by the Department of Corrections or an entity contracting with a division of the department to provide work release or post-incarceration housing services. It provides that an employer has the right to prohibit firearms for the following circumstances: a person who is not an employee storing a firearm in an employee's vehicle, having a firearm if the employee is using an employer-owned vehicle, the employee is the subject of an active or pending employment disciplinary proceeding, and from bringing a firearm on a parking lot if the premises is being used for residential housing.

This bill awaits consideration in the House Judiciary Committee.

Historically, the business community has opposed this type of bill. However, the only contact we've had so far said they reviewed the bill and did not have a problem with it. This was from a business that has always been very interested in this type of legislation.

STATE CHAMBER/AIA BILL TRACKING

Total Bills Filed: 1433 | New Bills Filed: Senate 7 | House 9

Bills and resolutions added to State Chamber/AIA Tracking: 5 | Total Tracked: 529

To view a list of the 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 Session 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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