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## 93rd General Assembly Tuesday, March 30, 2021 – Session Day 79

### SPECIAL EDITION

The session is at a point that will require us to shift release of our updates. Some days will have multiple updates, some may not have one at all. Thank you for reading and please continue to engage with your elected members of the General Assembly.

### BILLS IN COMMITTEE WEDNESDAY MORNING

#### CRITICAL INFRASTRUCTION PROTECTION – State Chamber/AIA Priority Agenda Bill

**HB 1321** by Rep. Jimmy Gazaway and Sen. Alan Clark *is on the agenda of the Senate Judiciary Committee, which meets at 9:30 a.m. Wednesday morning.*

This bill does three things: a) Defines critical infrastructure, b) adds critical infrastructure to the existing criminal code, and c) sets associated criminal mischief penalties. [This is a State Chamber/AIA Priority Agenda bill.](#)

There has been a growing and disturbing trend in recent years of individuals and organizations attempting to disrupt the operation of critical infrastructure in the energy, manufacturing, telecommunications, and transportation industries. Energy infrastructure specifically is often targeted by environmental activists to raise awareness of climate change and other perceived environmental challenges. These activities, however, expose individuals, communities, and the environment to unacceptable levels of risk and can cause millions of dollars in damage.

Over the last few years, several states including Oklahoma, Texas, Louisiana, and Tennessee have enacted legislation addressing this issue into law. Similar legislation has also been endorsed by the Council of State Governments (CSG). [In Arkansas, the following organizations and businesses support HB 1321.](#)

Arkansas State Chamber of Commerce  
Associated Industries of Arkansas  
American Council of Engineering Companies  
American Fuel and Petrochemical Manufacturers  
American Petroleum Institute  
Arkansas Electric Cooperatives  
Arkansas Independent Producers & Royalty Owners  
Arkansas Poultry Federation  
Arkansas Prosecuting Attorneys Association  
Arkansas Realtors Association  
Arkansas Society of Professional Engineers  
AT&T  
Entergy

## 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. We oppose this bill, which is on the House Insurance and Commerce Committee Agenda Wednesday morning.

This bill is an intrusive bill that would severely limit the ability of **self-funded health plans**, usually offered by the state's large employers, to make prescription drugs more affordable for their members.

The bill places self-insured groups and governmental plans under the provisions of the state PBM (pharmacy benefits manager) Licensure Act, which established a single-rate system of reimbursement for each drug dispensed by every pharmacy in the state, regardless of the quality of services provided.

Arkansas Blue Cross and Blue Shield believes HB1804 will negatively impact the employers that sponsor self-funded health plans and the hundreds of thousands of hard-working Arkansans who depend on them. We further believe **HB1804** will accelerate the escalation of healthcare costs in Arkansas.

Tools including protocols around prescribing and composition of pharmacy networks are used by most self-funded health plans and have been shown to be effective at helping health plans contain pharmaceutical costs. **HB1804** attempts to circumvent these widely accepted and clinically sound cost-containment approaches and injects inappropriate state intervention into private-sector business strategies and free-market dynamics.

**HB1804** would drive up the "out-of-pocket" costs of health plan members and ultimately could make the health plans on which they rely much less affordable. Additionally, HB1804 seeks to place an added reporting requirement on self-funded health plans that is burdensome and intrusive. Self-funded health plans would be required to share negotiated contract information including rebate and payment details that, until now, have been considered proprietary and confidential.

*This bill is on Wednesday morning's agenda in the House Insurance and Commerce Committee.*

We oppose this bill.

## RELEASE OF TAXPAYER INFORMATION

**SB 528** by Sen. Bill Sample seeks to require the Arkansas Department of Finance and Administration to provide reports to counties and cities containing data on sales tax rebates and credits awarded for local sales and use tax rebates, and for purchased property used in construction contracts. It would require the reports to be delivered electronically on a monthly basis and to include the name of the taxpayer and the amount of the credit or rebate awarded.

*This bill is on Wednesday morning's agenda in the Senate Revenue & Taxation Committee.*

We oppose the release of the taxpayer information.

## CONTINUING CALL TO ACTION

### WORKERS' COMPENSATION – State Chamber Priority Agenda Bill

**SB 530** by Sen. Dave Wallace and Rep. Jack Ladyman *was defeated in the Senate Monday afternoon by a vote of 19 yes, 12 no and 4 present but not voting. The bill needs 24 yes votes to pass. The vote was expunged, which allows a reconsideration.*

**If you asked your State Senator to vote FOR SB 530 and they did, please say thank you.**

**Please continue to ask your State Senator to vote YES on SB 530.**

When an employee is injured while on the job and the injury is caused by someone else, workers' comp is obligated to pay the injured workers' medical bills and then the employee can also seek recovery of the medical bills from the person that caused the injury.

Workers' Comp is also obligated to pay two-thirds of the employees lost wages, unless

that amount exceeds a cap. The injured employee can then make a claim for all of their lost wages against the person that caused the injury.

This means the employee's medical bills have been paid by workers' comp and collected from the person that caused the injury. Likewise, the portion of the employee's lost wages paid by workers' comp are included in any recovery the employee receives for lost wages from the person that caused the injury.

**SB 530** simply seeks to allow workers' comp to recover the amounts paid to their injured employee (medical bills and temporary total disability). Such recovery is known as subrogation and is a common right in insurance. It is authorized in the workers' comp statutes but has been blocked by a judge's decision. The subrogation recovery cannot exceed more than half of the recovery made by the employee from the person that caused the injury.

The ability to recover these funds is important to business owners and managers because the recovery will reduce the amount paid by their workers' comp coverage. Like all insurance, whenever a claim occurs it is likely the premiums will go up too.

**SB 530** also includes language about the workers' comp recovery being an absolute lien. This only means workers' comp's right to recover is superior to any other liens applied to the employee. Such liens can be for alimony, child support, taxes, materials, etc.

We ask these questions:

- a) Is it fair for the employee to have their medical bills paid by workers' comp and then recover those same medical costs from another person?
- b) Is it fair for the employee to collect part of their lost wages from workers' comp and then collect all of their lost wages from another person?

**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.**

### **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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