

DAILY LEGISLATIVE UPDATE



Business matters.

Daily Legislative Update

94th Arkansas General Assembly
Tuesday, March 28, 2023 | Day 79

TODAY'S MEETINGS

Click <https://www.arkleg.state.ar.us/> to see today's schedule of committee meetings. The Senate convenes at 1:00 p.m., and the House convenes at 1:30 p.m.

NEW TRACKED BILLS

Yesterday was the largest single day of bill filings in this session. We began tracking [30 additional bills](#) today. The most notable filings were:

Criminal Justice – Public Safety

SB 495 by Sen. Ben Gilmore and Rep. Jimmy Gazaway

In a press conference yesterday afternoon, Gov. Sarah Huckabee Sanders introduced her criminal justice plan. **SB 495**, a 132-page bill that was filed after the news conference, would strike or limit parole eligibility for certain offenders. It would require offenders convicted of certain violent felonies—including rape and capital murder—to serve 100 percent of their prison sentences. Offenders convicted of lesser violent felonies, such as second-degree murder, battery in the first degree or sexual indecency with a child, would have to serve 85 percent of their sentence before being eligible for release with supervision.

Along with tightening parole eligibility, the bill would increase penalties for certain serious charges. Manslaughter would be enhanced from a Class C felony to a Class B felony. Negligent homicide, which is a Class A misdemeanor under current law, would become a Class D felony. Promoting prostitution of a child would be enhanced from a Class D felony to a Class B felony.

Governor Sanders also said that she plans to expand the number of state prison beds by 3,000 to ease the backlog of inmates held in county jails. The expansion will cost an estimated \$470 million in construction expenses and \$31 million in annual operating costs.

SB495 would also rebrand the Arkansas Parole Board as the Post-Prison Transfer Board and place it under the state Department of Corrections, and it would establish the Legislative Recidivism Reduction Task Force. This 19-member panel is tasked with analyzing "the drivers of Arkansas' high recidivism rates" among other duties. The bill also includes provisions to expand victim notification, provide incarcerated parents with more time with their children and provide mental health services.

Sen. Gary Stubblefield, chair of the Senate Judiciary Committee, told the *Arkansas Democrat-Gazette* that the committee plans to hold a special order of business to consider SB495 on Wednesday. We support this bill.

Economic Development - Retail Sales Facilities

SB 493 by Sen. Gary Stubblefield

We are very concerned about and oppose this bill, which seeks to amend the Arkansas Constitution concerning the definition of economic development projects. The bill would redefine the term "economic development project" to include facilities for retail sales, allowing a county, city, town or other municipal corporation to obtain or appropriate money for facilities for retail sales.

It has been assigned to the Senate Agriculture, Forestry and Economic Development Committee.

Pollution Control - Liquid Animal Waste Management Systems

HB 1706 by Rep. DeAnn Vaught and Sen. Blake Johnson

This bill seeks to transfer the authority related to liquid animal waste management systems from the Department of Energy and Environment to the Department of Agriculture.

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

FOIA - Nutrient Management Plan Exempt

HB 1707 by Rep. DeAnn Vaught and Sen. Blake Johnson

This bill provides that a nutrient management plan or a poultry litter management plan is not a public record, shall not be made available for public inspection, and is exempt from the Freedom of Information Act.

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

Rural Economic Development Initiative

HB 1710 by Rep. Rick McClure

This bill seeks to create the Rural Economic Development Initiative to provide funds to planning and development districts for distribution to projects in rural areas to further rural economic development and revitalization.

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

Pharmacy Benefits Manager - Maximum Allowable Costs Lists

SB 489 by Sen. Clarke Tucker and Rep. Brandon Achor

This bill makes changes concerning a pharmacy benefits manager's requirements regarding Maximum Allowable Cost Lists and penalties for violations related to Maximum

Allowable Costs Lists. It states that pharmacies and pharmacists have a private right of action to enforce related violations.

This bill has been assigned to the Senate Insurance & Commerce Committee.

Logging Trucks - Congressional Exemption Urged

SB 494 by Sen. Matt Stone and Rep. Mindy McAlindon

This bill requires the Director of the Department of Transportation to request congressional action related to waiving interstate highway weight restrictions for certain logging vehicles.

This bill has been assigned to the Senate Transportation, Technology & Legislative Affairs Committee.

The newly tracked bills also address issues of railroads, cyber-attacks, education, racing commission expansion, property taxes and net-metering.

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

Workers' Compensation

HB 1611 and 1612 by Rep. Josh Miller and Sen. John Payton

These two bills await consideration in the House Public Health, Welfare and Labor Committee.

HB 1612 would remove the current caps on total disability payments an injured employee and his or her dependents can receive.

HB 1611 would remove the current prohibition against the Workers' Compensation Commission approving attorneys' fees in relation to a claim on medical benefits or services awarded.

Please ask your legislators to vote NO on HB 1611 and HB 1612.

STATE CHAMBER/AIA PRIORITY BILL

Throwback Rule Repeal

HB 1045 by Rep. Howard Beaty and Sen. Ben Gilmore

We support this bill, which is part of our priority agenda and seeks to repeal the throwback rule. The bill originally sought a complete repeal. It was amended yesterday to allow a phase out of the rule. This is a complicated tax rule that allows Arkansas to charge income tax on products that are made in Arkansas but are sold in states that do not charge income tax on the transaction for whatever reason.

This bill awaits consideration in the House Revenue and Taxation Committee.

BILLS WE OPPOSE

Prohibition of Covenants Not to Compete Agreements

HB 1628 by Rep. Stephen Meeks et. al and Sen. Mark Johnson

We oppose this bill, which seeks to repeal the existing state law governing non-compete agreements and replaces it with language to prohibit *all* "covenants not to compete" in the state. **This is a blanket prohibition, regardless of industry.** It is unclear whether the ban would only apply to agreements moving forward or whether it could also apply retroactively. Further, "employee" is not defined, so it is not clear whether the prohibition applies to current and *prospective* employees. The bill *does* make clear that it excludes non-solicitation and confidentiality agreements, along with agreements entered into upon the sale of a business. *However*, those terms are not defined.

This bill is on tomorrow's agenda in the House Insurance & Commerce Committee.

We have been told that a different sponsor may file a second bill banning non-compete agreements, as well. With currently proposed federal regulations on this issue, passing this legislation could put Arkansas employers in the overly burdensome position of having to interpret and comply with conflicting state and federal requirements around non-compete agreements.

Public Notice Requirements

HB 1399 and HB 1616 by Rep. Frances Cavanaugh and Sen. Scott Flippo

We oppose these bills.

HB 1399 would require counties and municipalities to publish specified public notices on a website rather than in a newspaper.

HB 1616 seeks to repeal numerous newspaper publication requirements for notices of various transactions.

This bill is on today's agenda in the House City, County, & Local Affairs Committee.

Elimination of Daylight Saving Time

HB 1568 by Rep. Stephen Meeks and Sen. Missy Irvin

We oppose this bill, which sought to eliminate daylight saving time in Arkansas and require the standard time in Arkansas to be central standard time. It would be very disruptive for Arkansas to be on a different time than the rest of the country.

This bill was defeated on the House floor yesterday afternoon by a vote of 26 to 53.

Pharmaceutical Executives – Felony for Drug Misinformation

SB 7 and SB 8 by Sen. Bryan King

We oppose these bills because of the precedent they would set in creating a felony for actions by corporate executives. We also have concerns about the bills' attempt to apply Arkansas criminal law to individuals who are not in Arkansas. **SB 7** applies to prescription drugs, and **SB 8** applies to vaccines.

These bills were given a Do Pass recommendation yesterday by the Senate Judiciary Committee and are on this afternoon's Senate calendar.

Healthcare Mandate Bills with Cost Concerns

There are a series of pending health care mandate bills. Although these bills are well intentioned, they will raise healthcare costs on fully insured plans used by individual consumers and small businesses. A health insurance provider has provided us with the following cost estimates on these bills.

HB 1261 by Rep. Lee Johnson would mandate coverage for ambulance service to triage, treat and transport a patient to alternative destinations. Estimated cost \$4.5 to \$6.8 million.

This bill awaits consideration on the Senate floor.

HB 1252 by Rep. Lee Johnson would require coverage for prosthetic devices for athletics or recreation and prosthetic devices for showering or bathing.

This bill passed on the House floor yesterday by a vote of 89 to 7 and has been assigned to the Senate Insurance & Commerce Committee.

The following bills are on today's agenda in the Senate Insurance and Commerce Committee.

SB 181 by Sen. Kim Hammer would mandate coverage for use of IVIG PANS/PANDA. The estimated cost is \$14.5 million or double this amount if adult population is included.

HB 1121 by Rep. Fred Allen would mandate coverage for biomarker testing for early detection of and management of cancer diagnoses. The estimated cost is \$14.3 to \$19.3 million.

SB 137 by Sen. Missy Irvin would mandate coverage for necessary maxillofacial services. The estimated cost is \$7 to \$9.4 million.

Career and Technical Courses

SB 470 and SB 369 by Sen. Jim Dotson and Rep. Rick Beck

These bills seek to require the Division of Career and Technical Education to review new and existing career and technical pathways to determine which courses meet criteria for weighted credit and publish a list of approved pathways annually.

We oppose these bills because they weaken Arkansas' nationally leading computer science education requirement.

State Chamber/AIA President and CEO Randy Zook spoke against SB 369 in the House Education Committee this morning. After discussion and testimony about the bill, committee members rejected SB 369. SB 470 awaits consideration in the Senate Education Committee.

BILLS WE SUPPORT

Possessory Liens

HB 1563 by Rep. Brian Evans and Sen. Ricky Hill

We support this bill, which aims to change towing practices in Arkansas by creating a cargo exception within towing policy to prevent "hostage cargo." The bill would allow cargo being transported for hire to no longer be held hostage by tow operators while the truck owner and their insurance provider negotiate and pay for the tow service. Transport companies would be able to transload the cargo to another trailer and make delivery to their customer.

This bill passed the House yesterday 82 to 7 and has been assigned to the Senate Transportation, Technology & Legislative Affairs Committee.

Arkansas Adult Diploma Program

HB 1529 by Rep. David Ray and Sen. Breanne Davis

We support this bill, which seeks to establish the Arkansas Adult Diploma Program. It would require the Department of Education to annually issue a request for public, nonprofit, or other entities to apply to become approved program providers in the Arkansas Adult Diploma Program. It also would require the Department of Education to announce the approved program providers no later than October 15 annually. An approved program provider may begin enrolling students starting no later than November 15 of each year.

This bill is expected to be considered Thursday by the House Education Committee.

CONSTITUTIONAL AMENDMENT PROPOSALS

Yesterday afternoon, the House State Agencies Committee heard presentations on 10 of 13 joint resolutions that propose constitutional amendments. Committee members will

submit their top three choices to the committee chairman by noon today, and the top two proposals that receive the most votes will be considered by the committee in their meeting tomorrow.

The Senate State Agencies Committee is expected to consider their 20 joint resolutions soon.

The legislature can refer up to three measures to the 2024 General Election ballot. For details see the [33 joint resolutions](#) filed in this session.

BILL TRACKING

1162 Bills Filed | Senate bills: 15 new - 496 filed | House bills: 43 new - 734 filed
State Chamber Tracking Bills & Resolutions: 497 – 30 bills added today

To view all tracked bills by category, click [State Chamber AIA Bill Tracking Categories](#)

2023 STATE CHAMBER AIA LEGISLATIVE AGENDA

LEGISLATIVE SESSION INFORMATION

To view schedules, calendars, bill information, and legislator information, click www.arkleg.state.ar.us.

LEGISLATIVE MESSAGE CENTER

House of Representatives: 501-682-6211
Senate: 501-682-2902

LIVE STREAMING FROM THE CAPITOL

The House and Senate have links to live streaming of their committee meetings and floor session online.

- House: <https://www.arkansashouse.org/>
- Senate: <http://www.arkansas.gov/senate/>

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