



DAILY LEGISLATIVE UPDATE

Daily Legislative Update

Monday, March 2, 2015

50th Day of 90th General Assembly

* * * CALL TO ACTION *

STATE CHAMBER/AIA PRIORITY BILLS

BILLS THAT WILL BE IN COMMITTEES THIS WEEK

TAXES

TAXPAYER FAIRNESS

SB 490 by Sen. Bill Sample and Rep. Ken Bragg is planned to be presented in the Senate Revenue and Taxation Committee on Wednesday, March 4.

Please ask your Senator to support SB 490

SB 490 seeks to eliminate requiring tax payers to pay taxes before they can challenge a tax ruling, lessen the burden of proof for taxpayers, make more fair the application of the statute of limitations, create transparency in DFA rulings, move the corporate income tax filing date back one month after IRS filings are due, and other provisions.

Another bill provision would extend a sales tax rebate period from six months to three years. This tax rebate was created in 2007 when Arkansas agreed to participate in the national Streamlined Sales Tax Program (SSTP). SSTP would not allow states to have sales tax caps, so Arkansas ended its sales tax caps to join SSTP. The rebate was designed to avoid a large tax increase on businesses and be in compliance with SSTP. Other tax rebate provisions allow three years for rebates. The cities and counties are concerned that rebates are impacting their budgets. But the large budget issues cities and counties have sustained are related to "tax refunds" not "tax rebates." Regardless, business owners say this is their money. The Council on State Taxation's business friendly rankings grade Arkansas down for the inconsistent rebate periods and other provisions addressed in SB 490.

MANUFACTURING REPAIR AND REPLACEMENT PARTS SALES TAX EXEMPTION SB 332 by Sen. Jake Files and Rep. Joe Jett is in the Senate Revenue and Taxation Committee and testimony will be taken Wednesday, March 4.

Please ask your Senator to support SB 332

This bill seeks a further, then complete reduction in the sales taxes paid by manufacturers on their repair and replacement parts. It would eliminate all but the constitutional sales taxes from 4.875 percent to 2.5 percent on July 1, 2015 and to zero on July 1, 2016. SB 332 would also eliminate the requirement that those seeking to take advantage of this tax exemption must have a Direct Pay Sales and Use Tax Permit from the Arkansas Department of Finance and Administration.

This bill is an effort to make Arkansas more competitive with our surrounding states where we are badly out of step. But its revenue impact is a challenge. The Department of Finance and Administration is concerned about removing the requirement of having a Direct Pay Permit to take advantage of the tax reductions. But for many, if not most, businesses, this is an unnecessary inconvenience. We are looking at options with DFA, but this is a requirement we definitely want to see removed.

UNEMPLOYMENT INSURANCE

HB 1489 by Rep. Lane Jean and Senators Jim Hendren and Bart Hester will be presented to the House Revenue and Taxation Committee on Thursday, March 5. Please ask your Representative to support HB 1489

This bill seeks to reduce the expenses of the Arkansas Unemployment Insurance (UI) Trust Fund by changing the calculation of an individual's UI benefit from the highest quarter of earnings to the average of the last four quarters of earnings, and reduces the weeks of unemployment insurance benefits in Arkansas from 25 to 20 weeks.

The Arkansas UI benefit amount has been non-competitive with our surrounding states for decades. Currently, the average weekly UI benefit in Arkansas is \$289.36. Mississippi has the lowest benefit at \$197.64, while Texas has the highest benefit at \$350.31. The Median benefit of the states that are contiguous to Arkansas is \$237.90. We believe Arkansas's 46th per-capita-income standing supports Arkansas having a UI benefit amount near the Median of our contiguous states.

When the Arkansas average weekly UI benefit is considered as a percentage of the state's average weekly wage, we are the highest of our contiguous states at 38.9 percent. Mississippi is the lowest at 24.7 percent and the Median 29.5 percent.

When the unemployment insurance program was created by Congress in the 1930s, it did not have a required number of weeks of coverage. That has not changed. Most states in the '30s provided 14-16 weeks of coverage. The number of weeks grew to 26 across the country at a

time when state UI Trust Funds were more solvent and taxes were coming down after the start of the program. The Great Recession of 2009-10 exposed underfunded and overused UI Trust Funds in 32 states including Arkansas. The combined debt of those 32 states was more than \$30 billion. This debt exposed employers to UI tax increases to retire the debt and pay interest. Currently, the average duration of UI claims in Arkansas is 14.5 weeks.

If adopted, this bill will reduce expenses of the Arkansas UI Trust Fund by between \$46 million and \$56 million annually. The Arkansas UI Trust Fund's largest historic balance was \$265 million in 2000 and its lowest was a negative \$362 million in 2010. This debt increased Arkansas employers' UI Taxes by up to as much as \$132 per employee.

The current U.S. Department of Labor (USDOL) estimate for a solvent Arkansas UI Trust Fund is \$642 million. We believe that amount is certainly debatable, but even a \$500 million balance will take some time to achieve. The most recent report we have from the Arkansas Department of Workforce Services (ADWS) projected a 2014 year-end balance of \$232.7 million, followed by \$325 million at year-end 2015 and \$360.7 million at year-end 2016.

The debt retirement triggered UI tax reductions of about \$100 per employee for Arkansas employers. A growing UI Trust Fund balance will produce additional UI tax decreases in the near future. The USDOL is tightening its loan standards to encourage states to raise the solvency level of UI Trust Funds across the country.

HB 1489 is designed to help the Arkansas UI Trust Fund achieve solvency as soon as possible and protect Arkansas employers from future recessions which could again dramatically raise their UI tax rates.

HB 1489 will also make Arkansas more competitive with our contiguous states.

PENDING STATE CHAMBER/AIA PRIORITY BILLS

PROHIBIT CONTINGENT FEE AUDITS

SB 470 by Sen. Ronald Caldwell would prohibit state agencies and political subdivisions from engaging auditors or appraisers on a contingency fee basis. We are investigating concerns raised by State Auditor staff. It may be presented to the Senate State Agencies and Governmental Affairs Committee on Wednesday. We are working with the Auditor's office and a variety of interests to resolve concerns.

WORKERS' COMPENSATION

Our bill on Workers' Compensation is being finalized this week with lead sponsor Rep. Matthew Shepherd. It will be co-sponsored by Sen. John Cooper. The bill seeks to solve the unfunded liability of the Workers' Compensation Commission's Death and Permanent Disability Trust Fund by stopping new claims from going into the Fund. It would also restore subrogation to workers' compensation cases.

WORKFORCE DEVELOPMENT

The State Chamber/AIA's workforce development bill package is still being worked on. Our bills include:

SB 368 by Sen. Jane English, Rep. Charlotte Douglass and others

SB 369 by Sen. English

SB 370 by Sen. English

SB 371 by Senators Jane English and Bobby Pierce

SB 372 by Sen. English and Rep. Bill Gossage and others

TODAY AT THE CAPITOL

House convenes 1:30 p.m.

Senate convenes 1:30 p.m.

JOINT

10:00 AM	Room 171	ENERGY - JOINT	Agenda
10:00 AM	Room 130	PUBLIC RETIREMENT & SOCIAL SECURITY PROGRAMS-JOINT	Agenda
Upon Adjournment of Both Chambers	Room B, MAC	JBC-CLAIMS	Agenda 

HOUSE

30 Minutes upon Adjournment	Room 151	STATE AGENCIES & GOVT'L AFFAIRS- HOUSE	Agenda
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SENATE

None listed.

HIGHWAY BILL

HB 1346 by Rep. Dan Douglas remains on the House calendar, but Rep. Douglas continues to meet with interested parties, and discussions regarding the bill are ongoing. The bill would allocate monthly any sales and use tax revenue from various sources above \$2.2 billion to various entities for highway and road improvements.

FIREFIGHTER DEATH BENEFIT

HB 1274 was amended and received a Do Pass recommendation from the House State Agencies and Governmental Affairs Committee last week. The bill is on today's House Calendar and is expected to be considered. The bill would provide a \$150,000 award for certain public employees killed in the line of duty and for firefighters with specific guidelines for eligibility. As originally filed, the bill created a presumption that certain cancers were work-related. The amendment modifies the language of the presumption and sets forth a review panel. This bill would seem to create a large cost exposure for the state and still has the danger of creating momentum for a presumption that all cancers sustained by firefighters are work-related.

BILLS OF INTEREST

OCCUPATIONAL AND PROFESSIONAL LICENSING

HB 1158 by Rep. Richard Womack would "allow a person to engage in a lawful occupation free from unnecessary regulation." The bill received a Do Pass recommendation from the House Public Health, Welfare and Labor Committee on February 12 and was passed over on the House Calendar February 17. It is not currently on the House Calendar. A meeting with the bill's lead sponsor has been rescheduled for this afternoon.

Coalition Members: The Arkansas State Chamber of Commerce, Associated Industries of Arkansas, Inc., Associated General Contractors of America, Associated Builders & Contractors, American Council of Engineering Companies of Arkansas, Arkansas Education Association, Arkansas Home Builders Association, Arkansas HVACR Association, Arkansas Society of Professional Surveyors, Arkansas Society of CPAs, Arkansas Society of Professional Engineers, Arkansas Speech-Language-Hearing Association, Brown Engineers, LLC, Cross, Gunter, Witherspoon and Galchus, P.C., Garver USA, McMillan, McCorkle, Curry & Bennington, LLP, Snyder Environmental, Wholesale Beer Distributors Association, Arkansas Optometric Association, Arkansas Fire Sprinkler Association, Arkansas State Dental Association, American Institute of Architects-Arkansas Chapter, Nabholz Construction, Arkansas Bar Association, AFCO Steel, Pack Engineering, Inc., Arkansas Realtors Association, Little Rock REALTORS® Association, McGoodwin, Williams and Yates, Inc., Arkansas Environmental Federation, Arkansas Pest Management Association, Arkansas Chapter of Appraisal Institute, Greater Hot Springs Chamber of Commerce, Little Rock Regional Chamber of Commerce, Fayetteville Chamber of Commerce, Rogers-Lowell Area Chamber of Commerce, Southland Racing and Gaming, Arkansas Automobile Dealerships Association, Middleton Heat & Air, Arkansas Construction Education Foundation, Covenant Medical Benefits, Arkansas Asphalt Pavement Association and Arkansas Association of Real Estate Inspectors.

If your business or organization would like to join this coalition, please email Kenny Hall at khall@arkansasstatechamber.com.

HUMAN RESOURCES ISSUES

Rep. Greg Leding's three bills, detailed below, continue to be of concern to the business community. They are all on Tuesday's committee agenda in the House Public Health Welfare and Labor Committee. However, Rep. Leding is continuing to review and discuss options for these bills with us and other human resource interests.

HB 1275 provides tax credits of up to \$4,000 per employee per year for employers who provide family and medical leave to employees, providing that under the \$4,000 limit, the credit shall be equal to 25 percent of the wages paid to the employee while on leave. This bill appears to create a revenue issue for the state, as well as a potential for expansion and/or modification of employers' leave provisions.

HB1276 requires employers with more than four employees to provide a detailed pay stub to each of their employees on at least a monthly basis. We have concerns about what many of the terms in this bill mean and how employers might satisfy the requirements.

HB 1277 requires employers, in a dispute with an employee, to pay all wages that the employer concedes are due to the employee without condition. The sponsor plans to amend this bill to remove a requirement that an employer pay employees on their last day of work to requiring employers pay the former employee on the next scheduled pay date. However, such an amendment does not alleviate the primary concerns of businesses. Creating a mandatory artificial due date for paying *any* employee outside the normal process is a problematic issue. Also, there is already a law that sets a timeline by which non-exempt employees must be paid (every two weeks). This bill's change to payroll processing is inconsistent with that provision. HB 1277 is also on the House Public Health, Welfare and Labor Committee agenda.

GUNS ON EMPLOYERS' PROPERTY

SB 492 by Sen. Jimmy Hickey and Rep. DeAnn Vaught was defeated in the Senate Judiciary Committee last week, but Sen. Hickey has the option to bring the measure before the committee for another vote. The bill would authorize employees with concealed-carry permits (CHCL) to keep a handgun locked and stored out of site in a vehicle on the employer's property, but not in company cars.

SB 573 by Sen. Alan Clark would prohibit a private employer from prohibiting or attempting to prevent an employee who is a concealed-carry licensee from having a handgun in his or her private vehicle on the employer's parking lot. The bill is on the Senate Judiciary Committee agenda.

Passage of a "parking lot" bill is a high priority for the National Rifle Association (NRA). The State Chamber/AIA opposes both of these bills because we believe the business owner's private property rights should supersede the individual's lawful right to possess a firearm.

NET OPERATING LOSS CARRY FORWARD

HB 1431 by Rep. Micah Neal seeks to extend the state's income tax's net operating loss (NOL) carry-forward provisions. The federal government allows businesses 20 years to offset future gains against past losses. Arkansas is in the bottom 10 in the country on the length of time allowed for NOL offset. This bill seeks to add one year annually to a maximum of 10 years by 2020. Ten years would still leave Arkansas in the bottom 10 nationally but would certainly be an improvement. The State Chamber/AIA supports this bill. We planned to file a bill that sought an extension to 15 years with a one-year look back, but the estimated cost was more than the legislature could afford in light of the current budget status. Rep. Neal came forward with this option and we agreed to join. HB 1431 is on the House Revenue and Taxation Committee agenda.

PROJECT LABOR AGREEMENTS

SB 426 by Sen. Jon Woods and Rep. Bruce Cozart would prohibit public agency construction contracts from containing terms or bid specifications that encourage or discourage potential contractors from entering into collective bargaining agreements. It was approved by the Senate last week 33-0 and is on tomorrow's agenda in the House Public Health, Welfare and Labor Committee. The State Chamber/AIA supports this bill.

Project Labor Agreements (PLA) give favor to contractors that agree to use organized labor. If a PLA is required on government-funded or assisted projects in Arkansas, it would be nearly impossible for the 97.4 percent of the construction workforce in the state to compete on an equal basis for construction projects. This commonly reduces competition from qualified merit shop contractors and increases construction costs. As a result, PLAs are known to increase costs by as much as 20 percent.

In 2005, Gov. Mike Huckabee issued an executive order banning PLA mandates on state and state-funded construction projects. This made Arkansas one of the first states to take action on this issue. This order is still in place today. It protects taxpayers and the construction industry. SB 426 seeks to codify into statute the executive order to ensure that fair and open competition for taxpayer-funded construction remains the law of the land in Arkansas. Since 2010, 17 states have banned PLA mandates through either executive order or enacting statutes, making the total number of states that ban PLAs 21.

EMISSIONS PLAN FOR POWER PLANTS

SB 183 Sen. Eddie Joe Williams, which has been amended four times, is on today's Senate calendar.

EMINENT DOMAIN

HB 1490 by Rep. Bob Ballinger would strike procedure for using eminent domain by various entities, making all subject to a procedure prescribed in a new code section created by this bill. A circuit court jury would decide compensation of landowners.

STATE CHAMBER/AIA BILL TRACKING

To date, the House has filed 521 bills and the Senate has filed 649 bills.

The State Chamber/AIA is tracking 264 bills and resolutions.

New bills added to State Chamber/AIA tracking today:

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| <u>HB 1492</u> <u>Bentley, Mary (R)</u> | Repeals the Arkansas Health Insurance Marketplace and its board of directors. |
| <u>HB 1493</u> <u>Eads, Lance (R)</u> | Makes various revisions in the Development Finance Authority, including moving administration of the Farm Mediation Program from the Division of Agriculture Development; broadening sources for project funding; more. |
| <u>HB 1496</u> <u>Lampkin, Sheilla (D)</u> | Requires annual allocation to regional solid waste management districts those special revenues collected as disposal fees for electronic equipment recycling programs. Prescribes procedures to determine allocation. |
| <u>HB 1497</u> <u>Lampkin, Sheilla (D)</u> | Provides solid waste management districts need apply only once for a waste tire grant; requires ADEQ disburse awards immediately; excludes from definition of "waste tire" that portion processed for beneficial use. |
| <u>SB 645</u> <u>Hendren, Jim (R)</u>
<u>Douglas, Dan (R)</u> | Authorizes utilities to acquire operating units or systems that are owned by the public utility's affiliate or other entities; providing that utilities claiming an exemption under the Utility Environmental Protection Act may seek recovery. |

For the complete, searchable list of bills being tracked, please visit our [tracking site](#). The full text of each bill is available at the site.

THIS WEEK AT THE CAPITOL

Committee Meetings for Tuesday, March 3, 2015

JOINT

7:30 AM	Room B, MAC	JBC-SPECIAL LANGUAGE	
9:00 AM	Room A, MAC	JOINT BUDGET COMMITTEE	Agenda

HOUSE

10:00 AM	Room 151	REVENUE & TAXATION- HOUSE	Agenda
10:00 AM	Room 138	EDUCATION COMMITTEE- HOUSE	Agenda
10:00 AM	Room 149	JUDICIARY COMMITTEE- HOUSE	Agenda
10:00 AM	Room 130	PUBLIC HEALTH, WELFARE AND LABOR COMMITTEE- HOUSE	Agenda
10:00 AM	Room B, MAC	PUBLIC TRANSPORTATION- HOUSE	Agenda

SENATE

10:00 AM	OSC	STATE AGENCIES & GOVT'L AFFAIRS-SENATE	Agenda
10:00 AM	Room 171	INSURANCE & COMMERCE - SENATE	Agenda
10:00 AM	Room 309	AGRICULTURE, FORESTRY & ECONOMIC DEVELOPMENT - SENATE	Agenda

LEGISLATIVE SESSION CONTACT INFORMATION

State Senators: 501-682-2902

State Representatives: 501-682-6211

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

To view live stream video and audio from the Arkansas House of Representatives,
visit www.arkansashouse.org.

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