



# Daily Legislative Update

Thursday, March 5, 2015

53<sup>rd</sup> Day of 90<sup>th</sup> General Assembly

## TODAY AT THE CAPITOL

Senate convenes 11:00 a.m.

House convenes 1:30 a.m.

**To view the most current and complete Legislative meeting schedule, go to:**

[www.arkleg.state.ar.us](http://www.arkleg.state.ar.us)

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

## STATE CHAMBER/AIA PRIORITY BILLS

## BILLS IN COMMITTEES TODAY

### UNEMPLOYMENT INSURANCE

**HB 1489** by Rep. Lane Jean and Senators Jim Hendren and Bart Hester is scheduled to be presented to the House Revenue and Taxation Committee this morning. Please ask your Representative to support HB 1489

HB 1489:

- 1) *Changes the calculation of an individual's unemployment insurance benefit*
  - a. Uses the average of an employee's last four quarters of earnings instead of only the highest quarter of earnings
- 2) *Reduces the weeks of unemployment insurance benefits in Arkansas from 25 to 20 weeks*

### Arkansas Unemployment Insurance Trust Fund Not Currently Solvent

- Current US DOL solvency calculations indicate AR UI Trust Fund should have \$642 million
  - Highest AR UI Trust Fund balance \$265 million in 2000
  - Lowest AR UI Trust Fund balance (\$362) million in 2010
  - AR-DWS 3<sup>rd</sup> Quarter 2014 Projections for Trust Fund Balance

- \$232.7 million at year end 2014
- \$325 million at year end 2015
- \$360.7 million at year end 2016

### **Benefits of Solvent Trust Fund**

- Protects AR employers from UI tax increases
  - 2010 Debt increased AR UI taxes annually—up to about \$180 more per employee!
  - Reduces risk of US-DOL taking punitive action against Arkansas employers

### **HB 1489 Reduces Claim Expenses of the Trust Fund by \$46 to \$56 million annually**

- Combined impact of benefit calculation change and reduction in maximum weeks of coverage
  - Average AR UI claim lasts 14.5 weeks (duration) – well below new 20-week maximum
    - Duration in states with lowered max weeks is significantly lower than maximum
    - States that cut maximum number of weeks have seen solvency improvements
      - NC, SC, GA, FL, MI, KS, MO all have less than 25 weeks
      - Many workers find work at the end of maximum weeks
    - Federal law does NOT require a specific number of weeks in state UI laws
      - Norm at program's beginning in 1930s was in the 10-16 week range
      - 26 weeks came about when state trust funds were much more solvent and taxes started to come down after initial program start up
    - Unemployment insurance is no longer the single government safety net like 1930s
    - Employer financed UI program is no longer primary safety net as in 1935. UI system is a relatively small part of the much larger safety net
- Expense reduction helps Arkansas Unemployment Insurance Trust Fund achieve solvency faster

### **HB 1489 Also Makes Arkansas More Competitive with Contiguous States**

- Average weekly UI benefit in Arkansas is \$289.36
  - Act 861 of 2011 froze minimum & maximum benefit amounts at \$81–\$451
  - Among states contiguous to Arkansas
    - Mississippi has lowest benefit at \$197.64
    - Texas has highest benefit at \$350.31
    - Median benefit is \$237.90
      - Arkansas ranks 46<sup>th</sup> in US for per capita income but pays UI above Median!
- Arkansas UI benefit amount as a percentage of weekly wage is 38.9 percent
  - AR is highest among our contiguous states
  - Mississippi is the lowest at 24.7 percent
  - Median is 29.5 percent

## TIPAC

**SB 204** by Senator Jane English and Rep. Karilyn Brown passed the Senate 34-0 on February 12. It will be presented to the House Judiciary Committee this morning. Please ask your Representative to support SB 204.

The Transparency in Private Attorney Contracting Act (“TIPAC”) ensures that contingency fee contracts in the office of the Attorney General are awarded openly and that citizens receive the maximum practicable amount of any settlement or award.

- TIPAC promotes competitive bidding and transparent contracting by requiring the Attorney General to:
  - Determine, in writing, that a contingency fee arrangement will be both cost-effective and in the best interests of the state;
  - Request proposals on a state website before entering into a contingency fee contract;
  - Publish executed contingency fee contracts on a state website; and
  - Publish information on any fees paid pursuant to contingency fee contracts.
- TIPAC ensures that government attorneys retain control of litigation and that consumers, victims and taxpayers receive their fair share of any recovery by:
  - Establishing reasonable, tiered limits on contingency fees as a percent of a state’s recovery
  - Allowing private attorneys to receive, in addition to any contingent fee, only reasonable costs and expenses as determined from detailed records maintained throughout the litigation; and
  - Requiring government attorneys to participate in all settlement negotiations and retain ultimate control of the litigation.

## BILLS IN COMMITTEE YESTERDAY

### TAXES

#### TAXPAYER FAIRNESS

**SB 490** by Sen. Bill Sample and Rep. Ken Bragg received a DO PASS recommendation from the Senate Revenue and Taxation Committee yesterday morning! It is on today’s Senate Calendar to adopt an amendment. Please ask your Senator to support SB 490

SB 490 seeks to eliminate requiring taxpayers to pay taxes before they can challenge a tax ruling, lessens the burden of proof for taxpayers, makes more fair the application of the statute of limitations, creates transparency in Department of Finance and Administration (DFA) rulings, moves the corporate income tax filing date back one month after IRS filings are due and other provisions.

All of DFA’s concerns have been satisfied and the Cities and Counties did not oppose an increase of the tax rebate period from six months to one year. This provision will be formally amended into the bill today.

The primary reason for this bill is to get Arkansas out of the Council of State Taxation's list of the five worst states for business tax environment.

## **PENDING STATE CHAMBER/AIA PRIORITY BILLS**

### **WORKERS' COMPENSATION**

We received the draft of our Workers' Compensation bill yesterday and were satisfied with its language. Rep. Matthew Shepherd plans to review and then file it. Senators John Cooper and David Sanders are the co-sponsors. 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.

### **TAXES**

**MANUFACTURING REPAIR AND REPLACEMENT PARTS SALES TAX EXEMPTION SB 332** by Sen. Jake Files and Rep. Joe Jett was not considered yesterday in the Senate Revenue and Taxation Committee. It will take some time to work through this bill's revenue impact. Please ask your Senator to support SB 332

This bill is an effort to make Arkansas more competitive with our surrounding states where we are badly out of step. It 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. As written, it would have eliminated the Direct Pay Permit to take advantage of the tax reductions, which was a problem for many, if not most, businesses. DFA had concerns, but has been working with us and we may very well have solved the problem.

### **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. It is being held in the Senate State Agencies and Governmental Affairs Committee. We are working with the Auditor's office and a variety of interests to resolve concerns.

### **WORKFORCE DEVELOPMENT**

The State Chamber/AIA's worker force 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

## **NEW BILLS OF INTEREST**

### **EMPLOYMENT APPLICATIONS**

**HB 1618** by Rep. Donnie Copeland prohibits employers from reviewing an applicant's criminal record until the employer has extended a conditional offer of employment to the applicant. It also sets bounds on the effect of the criminal record on employment. We believe this bill eliminates the "check box" on employee applications

### **UNEMPLOYMENT INSURANCE DRUG TESTING**

**SB 790** by Sen. Jeremy Hutchinson clarifies termination of unemployment benefits to persons terminated for testing positive for an illegal drug. It also makes a determination of liability for unemployment tax binding unless the employer timely requests an administrative determination. This may be DWS' bill.

### **LEGISLATIVE SUPOENA AUTHORITY**

**HB 1643** by Rep. Richard Womack and Senator Bart Hester specifies that the authority to administer oaths, take depositions and issue subpoenas extends to the chair or a member acting as chair of all committees of the General Assembly.

### **PUBLIC REGULATION REVIEW**

**HB 1582** by Rep. Bill Gossage requires state agencies to attempt to regulate industry in the least restrictive means possible while still protecting public health and safety, avoiding burdensome laws, regulations, and licensing requirements. It requires state boards, commissions, departments, officers, or other authorities of state government to host a public meeting in each calendar quarter in each Congressional district annually.

### **LIMIT USE OF FOREIGN LAW**

**HB 1474** by Rep. Brandt Smith and Sen. John Cooper creates uncodified language providing legislative findings regarding foreign laws being applied to Arkansas citizens. It also provides that no court rulings or contractual provisions may appeal to foreign laws which violate the fundamental liberties, rights and privileges granted under the U.S. Constitution or Arkansas Constitution.

## CONTINUING BILLS OF INTEREST

### HUMAN RESOURCES ISSUES

Rep. Greg Leding's three bills, detailed below, continue to be of concern to the business community.

**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. It was on Tuesday's House Revenue and Taxation Committee Agenda but not listed at this time.

**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. It is on today's House Public Health, Welfare and Labor Committee Agenda

**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 to 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. It is on today's House Public Health, Welfare and Labor 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 is on today's 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.

## **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.

Passage of a "parking lot" bill is a high priority for the 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. Both bills are in the Senate Judiciary Committee.

## **EMISSIONS PLAN FOR POWER PLANTS**

**SB 183** Sen. Eddie Joe Williams received a Do Pass recommendation yesterday from the House Agriculture, Forestry and Economic Development Committee. This bill appears to require legislative approval before ADEQ can submit a state implementation plan to the EPA and requires additional review by ADEQ if such plan would create a significant rate increase.

## **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. It is on the House Judiciary Agenda.

## **BILLS COMPLETED, WITHDRAWN OR UNLIKELY TO CONTINUE**

### **HIGHWAY BILL**

**HB 1346** by Rep. Dan Douglas is on today's House Calendar to be withdrawn from further consideration.

### **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 bill has been assigned a \$14 million revenue impact, which will make it unlikely that this bill will get any further consideration.

### **FIREFIGHTER DEATH BENEFIT**

**HB 1274** by Rep. Greg Leding was approved by the Senate 34-0 yesterday. It now goes to the Governor. This bill will set up a panel to review the death of qualified firefighters to determine if cancer was work-related to provide a \$150,000 award for certain public employees.

### **STATE CHAMBER/AIA BILL TRACKING**

To date, the House has filed 647 bills and the Senate has filed 793 bills.

The State Chamber/AIA is tracking 341 bills and resolutions.

New bills added to State Chamber/AIA tracking today:

<a href="#"><u>HB 1611</u></a>	<a href="#"><u>Ratliff, James (D)</u></a>	Sets specific circumstances, with exceptions, that create a vacancy on a school board and prescribes procedures for a hearing and for determining and filling the vacancy.
<a href="#"><u>HB 1613</u></a>	<a href="#"><u>Hickerson, Mary, R &amp; Hickey, Jimmy, (R)</u></a>	Directs a portion of commercial driver license fees to the Highway Department. Creates a driver monitoring program in the Office of Driver Services to report the driving records of individuals at the request of an insurer.
<a href="#"><u>HB 1614</u></a>	<a href="#"><u>Collins, Charlie (R)</u></a>	Exempts employer-employee and employee-employee incidents occurring in the workplace from Arkansas Civil Rights Act provisions for injunctive relief or civil damages for hate offenses motivated by racial, religious or ethnic animosity.
<a href="#"><u>HB 1616</u></a>	<a href="#"><u>Love, Fred (D)</u></a>	Establishes procedures for automatic registration to vote, requiring the Office of Driver Services to provide data to the Secretary of State for individuals determined to be eligible.

<a href="#"><u>HB 1617</u></a>	<a href="#"><u>Love, Fred (D)</u></a>	Abolishes the State Board of Barber Examiners, transferring its powers and duties to the State Board of Health and the Department of Health.
<a href="#"><u>HB 1618</u></a>	<a href="#"><u>Copeland, Donnie (R)</u></a>	Prohibits employers from reviewing an applicant's criminal record until the employer has extended a conditional offer of employment to the applicant. Sets bounds on the effect of the criminal record on employment.
<a href="#"><u>HB 1619</u></a>	<a href="#"><u>Talley, Brent (D)</u></a>	Allows the use of a private entity to operate a 911 public safety communications center. Requires concurrence of the county judge and the sheriff for each center in their jurisdiction.
<a href="#"><u>HB 1622</u></a>	<a href="#"><u>Sabin, Warwick (D) &amp; Clark, Alan, (R)</u></a>	Specifies course content for the economics and personal finance course required for high school graduation.
<a href="#"><u>HB 1623</u></a>	<a href="#"><u>Cozart, Bruce, (R) &amp; English, Jane, (R)</u></a>	Increases the minimum salaries required in the teacher compensation schedule.
<a href="#"><u>HB 1630</u></a>	<a href="#"><u>Shepherd, Matthew (R)</u></a>	Exempts property owned by nonprofit veterans organizations, including the American Legion and the Veterans of Foreign Wars, from property taxes.
<a href="#"><u>HB 1632</u></a>	<a href="#"><u>Douglas, Charlotte (R)</u></a>	Prohibits vehicle liability insurers from denying a claim to a victim of domestic abuse if the claim arose in connection with an incident involving domestic abuse and the claim would be covered if the victim were not a member of the insured's household.
<a href="#"><u>HB 1633</u></a>	<a href="#"><u>Sabin, Warwick (D)</u></a>	Allows utilities to enter into a power purchase agreement of up to five years unless the Public Service Commission finds that a longer term is required by public convenience and necessity.
<a href="#"><u>HB 1634</u></a>	<a href="#"><u>Pitsch, Mat (R)</u></a>	Adds to the procurement procedures of the State Highway Commission the authority to enter into a contract for a concession and for qualification-based, design-build finance services.
<a href="#"><u>HB 1637</u></a>	<a href="#"><u>Bennett, Camille (D)</u></a>	Allows employer references requested from previous employers to be delivered in the media and format convenient to the former employer.
<a href="#"><u>HB 1638</u></a>	<a href="#"><u>Baine, John (D)</u></a>	Amends provisions of the Fire Prevention Act. (Shell bill)
<a href="#"><u>HB 1639</u></a>	<a href="#"><u>Lampkin, Sheilla (D)</u></a>	Amends provisions related to the Post-Closure Trust Fund. (Shell bill)

<a href="#"><u>HB</u></a> <a href="#"><u>1641</u></a>	<a href="#"><u>Murdock, Reginald</u></a> <a href="#"><u>(D)</u></a>	Removes the \$2.00 or 2 percent of the amount of the transaction limit that state-chartered banks may charge for use of a customer-bank communication terminal.
<a href="#"><u>HB</u></a> <a href="#"><u>1643</u></a>	<a href="#"><u>Womack, Richard,</u></a> <a href="#"><u>(R) &amp; Hester, Bart,</u></a> <a href="#"><u>(R)</u></a>	Specifies that the authority to administer oaths, take depositions and issue subpoenas extends to the chair or a member acting as chair of all committees of the General Assembly.
<a href="#"><u>HB</u></a> <a href="#"><u>1644</u></a>	<a href="#"><u>Richmond, Marcus</u></a> <a href="#"><u>(R)</u></a>	Repeals the requirement that the Highway and Transportation Department construct and maintain hard-surfaced roads that lead to a municipal airport outside of a municipality's city limits.
<a href="#"><u>HB</u></a> <a href="#"><u>1646</u></a>	<a href="#"><u>Douglas, Dan (R)</u></a>	Revises provisions relating to energy-efficiency contracts and projects to encourage the implementation of performance-based, efficiency projects.
<a href="#"><u>SB</u></a> <a href="#"><u>761</u></a>	<a href="#"><u>Hendren, Jim-(R) &amp;</u></a> <a href="#"><u>Douglas, Dan-(R)</u></a>	Requires award of attorney's fees and costs to the defendant when a claim is dismissed because the filing party failed to state a claim under Rule 12 of the Rules of Civil Procedure.
<a href="#"><u>SB</u></a> <a href="#"><u>763</u></a>	<a href="#"><u>Files, Jake (R)</u></a>	Promotes transparency in health care. (Shell bill)
<a href="#"><u>SB</u></a> <a href="#"><u>765</u></a>	<a href="#"><u>Stubblefield, Gary-</u></a> <a href="#"><u>(R) &amp; Bentley,</u></a> <a href="#"><u>Mary-(R)</u></a>	Sets the preferential primary election on the first Tuesday in March. Sets party candidate filing period to begin on the first Monday in November and end on the second Monday in November.
<a href="#"><u>SB</u></a> <a href="#"><u>769</u></a>	<a href="#"><u>Rapert, Jason (R)</u></a>	Amends provisions of property and casualty insurance law, including repeal of the annual direct writing report.
<a href="#"><u>SB</u></a> <a href="#"><u>770</u></a>	<a href="#"><u>Rapert, Jason (R)</u></a>	Revises various provisions concerning insurance companies and licensees. (Shell bill)
<a href="#"><u>SB</u></a> <a href="#"><u>772</u></a>	<a href="#"><u>Johnson, David-(D)</u></a> <a href="#"><u>&amp; Vines, John-(D)</u></a>	Makes technical corrections to Title 19 and Title 27 of the Arkansas Code concerning public finance.
<a href="#"><u>SB</u></a> <a href="#"><u>777</u></a>	<a href="#"><u>Hickey, Jimmy -(R)</u></a> <a href="#"><u>&amp; Hammer, Kim-</u></a> <a href="#"><u>(R)</u></a>	To amend laws relating to procurement. (Shell bill)
<a href="#"><u>SB</u></a> <a href="#"><u>778</u></a>	<a href="#"><u>Maloch, Bruce (D)</u></a>	Changes language to provide that new rules or orders by the Oil and Gas Commission are only effective after an 'opportunity for' a public hearing, previously only after a public hearing is held.
<a href="#"><u>SB</u></a> <a href="#"><u>780</u></a>	<a href="#"><u>Rapert, Jason (R)</u></a>	To amend the Insurance Code and law relating to insurance regulation. (Shell bill)

<a href="#"><u>SB 782</u></a>	<a href="#"><u>Irvin, Missy-(R) &amp; Fite, Charlene-(R)</u></a>	Begins exempting more military retirement benefits from income tax in tax year 2015 (\$12,000) and increases the exemption further in 2016 (\$20,000) and 2017 (\$28,000).
<a href="#"><u>SB 789</u></a>	<a href="#"><u>Hendren, Jim (R)</u></a>	Creates the Open-Enrollment Public Charter School Facilities Funding Aid Program.
<a href="#"><u>SB 790</u></a>	<a href="#"><u>Hutchinson, Jeremy (R)</u></a>	Clarifies termination of unemployment benefits to persons terminated for testing positive for an illegal drug. Makes a determination of liability for unemployment tax binding unless the employer timely requests an administrative determination. More.
<a href="#"><u>SB 791</u></a>	<a href="#"><u>Hutchinson, Jeremy (R)</u></a>	Creates the Workforce Development Board, with staff support from the Department of Workforce Services, charged with development and implementation of a state workforce development plan.

***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.

### ***LEGISLATIVE SESSION CONTACT INFORMATION***

State Senators: 501-682-2902

State Representatives: 501-682-6211

To view schedules, calendars, bill information and legislator information, visit:  
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