



Daily Legislative Update

Friday, April 3, 2015

YESTERDAY AT THE CAPITOL

The 90th General Assembly adjourned yesterday after 81 days of work.

They can be called back by proclamation otherwise they will reconvene on May 8 to consider any errors or vetoes. Typically, leadership is elected at this time and then they will adjourn Sine Die.

Bills that were passed without an emergency clause will become effective 90 days after Sine Die adjournment.

CONSTITUTIONAL AMENDMENTS

Each General Assembly has the authority to refer up to three issues to the next General Election ballot. For much of this session it appeared nothing would be referred. However, over the past couple of weeks momentum grew to refer two amendments to address economic development. This effort was pushed by Governor Hutchinson, local chamber executives, local economic developers and the State Chamber/AIA.

This week the Joint State Agencies Committee agreed upon three issues and they were all three passed by both chambers. The economic development issues were **SJR 16** by Sen. Jon Woods and Rep. Lance Eads and **SJR 3** by Sen. Eddie Joe Williams.

The votes on **SJR 16** can be viewed by clicking these links:

Senate vote:

<http://www.arkleg.state.ar.us/assembly/2015/2015R/Pages/votes.aspx?rcsnum=1643&votechamber=Senate>

House vote:

<http://www.arkleg.state.ar.us/assembly/2015/2015R/Pages/votes.aspx?rcsnum=1912&votechamber=House>

SJR16 gives a common definition of Economic Development, Economic Development Infrastructure, and Economic Development Services across all three of these areas addressed in Article 12 Section 5, Amendment 82, and Amendment 62 of the Arkansas Constitution. Having this common definition takes away the different uses of these amendments and allows for any of the three to be used, together or independently.

This amendment will allow for cities and municipalities to "participate" in Economic Development Infrastructure. Article 12 Section 5 has prohibited this type of activity.

This amendment will also remove the 5% cap (to the state budget) on Super Project General Obligation Bonds issued under Amendment 82. This will basically remove the total cap of about \$250+ million dollars on these projects and allow the legislature to determine whether the incentive should be offered based on the impact of the project. There is currently only about \$30-\$40 million dollars left available with the 5% limit (if projects in the pipeline come to fruition). Some recent tweaking of enabling legislation has provided for another \$60-\$65 million dollars, giving the State about \$100 million dollars for super projects over the next 18 months.

This amendment will allow cities and municipalities to use the bonding capacity of Amendment 62 for economic development projects, as defined by the amendment.

Finally, and most importantly, this will give a clear, legal way for 20 cities and 5 counties across Arkansas to spend funds already collected by existing economic development sales taxes. Currently, most of the expenditures from these funds for projects or services are constitutionally suspect.

SJR 3 would remove the historic provision that strips the Governor of his powers and duties while absent from the state.

If you asked legislators to support these resolutions please be sure to thank them.

The State Chamber/AIA is very grateful to all members of the General Assembly and Governor Hutchinson for their support on these important issues to advance economic development in Arkansas

The third issue referred to the 2016 General Election ballot is **HJR 1027** by Rep. Jack Ladyman. It proposes an amendment to the Constitution to increase terms of circuit clerks and county judges from two to four years and prohibits ten specific county officials from serving in any civil office during a term.

It also adds a provision allowing uncontested candidates to be declared elected without holding the election and defining 'infamous crime' for purposes of office eligibility.

RELIGIOUS FREEDOM

HB 1228 by Rep. Bob Ballinger was a Religious Freedom Restoration Act (RFRA). Arkansas was one of 11 states that had no RFRA by statute, constitutional amendment or judicial decree. During consideration of HB 1228 in the House, the State Chamber/AIA requested an amendment to reduce concerns about potential impact on businesses. An amendment that satisfied our request was granted and adopted while the bill was considered in the Senate.

About the time of HB 1228's approval in the Senate, Indiana passed a RFRA law that drew national attention. This national attention then spread into Arkansas as HB 1228 returned to the House for consideration of concurrence in three amendments that were added in the Senate. The House Judiciary Committee concurred in the Senate amendments to HB 1228 and then the House concurred in the amendments on Tuesday, March 31.

As the bill arrived on the Governor's desk Tuesday, national attention peaked and the Governor, business and tourism interests became concerned about negative national attention the bill was bringing to Arkansas. The State Chamber/AIA issued a statement of concern, other business and tourism organizations issued statements of opposition and specific businesses expressed concerns & opposition directly to the Governor and through public comments.

On Wednesday morning Governor Hutchinson held a press conference and announced his desire that the House recall HB 1228 from his desk and consider amending the bill to more closely reflect the federal RFRA law passed in 1993. The federal RFRA was passed by a unanimous vote in the U.S. House, a 97-3 vote in the U.S. Senate (including a Yes vote from then IL Senator Barack Obama) and was signed into law by President Bill Clinton.

The 1993 federal RFRA law came about in response to a 1990 U.S. Supreme Court ruling that was viewed by many as an erosion of the U.S. Constitution's First Amendment freedom of religion provisions. A 1997 court ruling brought into question the applicability of the 1993 RFRA law's application to states and local governments. This led to 20 states adopting state based RFRA laws and other judicial or amendment related adoptions in another 19 states.

In response to the Governor's press conference, the Arkansas Senate acted Wednesday afternoon to amend two shell bills, SB 229 and SB 975. After amendment SB 229 was sponsored by Sen. John Cooper, 10 other senators and Rep. Bob Ballinger and 20 other House members. SB 975 as originally filed was sponsored by Sen. Gary Stubblefield, but when amended it was sponsored by Sen. Jeremy Hutchinson, nine other Senators, Rep. Bob Ballinger and 24 other House members. These bills were amended with identical language that was considered adoption of the federal RFRA law. There were concerns regarding the

germaneness of the amendment to the original bill of SB 229 and issues with the sponsors of SB 975. The only exceptions to the federal law were provisions for the Arkansas Department of Corrections and the Arkansas Department of Community Corrections. The bills' language had to also be conformed to fit Arkansas statutory provisions and rules of construction.

The Senate Judiciary Committee met late Wednesday afternoon and approved **SB 229** and **SB 975**. Both bills then passed the full Senate Wednesday night. SB 229 passed by a vote of 26-6 with 1 not voting and 1 voting present. (We incorrectly report this as 26-0 yesterday due to a typing error) SB 975 passed by a vote of 26-0 with 7 not voting and 1 voting present.

The House Judiciary Committee gave a Do Pass recommendation to SB 975 yesterday morning. SB 229 was not considered because of the concerns about its original title and the sponsor issue related to SB 975 was eventually resolved.

Rep. Bob Ballinger presented SB 975 to the full House yesterday afternoon and it was adopted by a vote of 76-17 with 5 not voting and 2 voting present. The House then took a recess and many went down to the Governor's office where a press conference was held and SB 975 was signed into law by Governor Hutchinson. The House then returned into session, took votes on their final three bills and then approved, by voice vote, a motion by Rep. Bob Ballinger to recall HB 1228 to the House where it will die with the session's end.

This attempt at a factual account of what transpired this week in regards to adoption of a RFRA law obviously excludes the tremendous amount of hard work and emotions by members of the legislature, the Governor's office and the outside interests on both sides of this issue.

The Arkansas Democrat Gazette reports that *before signing, Hutchinson noted the outreach from business and grassroots leaders and said that though the bill prompted a "contentious debate," it was solved in the "Arkansas way." "I think what [lawmakers] have done in the last 24 hours is something every Arkansan can be proud of," Hutchinson said. "It protects religious freedom. It is a framework for decisions by the courts that has to balance all the issues in our society and continue to recognize that in Arkansas and across our nation we have a diverse workforce and a diverse culture."*

The State Chamber/AIA is very proud and grateful of the efforts exhibited by our General Assembly and Governor this week. They demonstrated the beauty of America's unique governmental process and once again showed to all why America is the best country in the world. Congratulations to all and on behalf of our almost 1300 member businesses, business associations, local chambers of commerce and local economic developers we are thankful for the hard work of our Governor and legislature.

STATE CHAMBER/AIA PRIORITY ISSUES

The State Chamber/AIA had an outstanding session. In the coming days we will be developing a complete analysis and review of the session and will once again publish a Legislative

Summary. Today we wanted to highlight the issues we deemed a priority prior to the session and the results.

In our legislative preview we stated our chief concerns to help Arkansas be a better place to live, work and do business to be:

- Developing and maintaining a capable and available workforce
 - Advancement of comprehensive education reform
- Achieving and maintaining a fair, equitable and competitive tax environment
- Maintaining our nationally competitive workers' compensation system
- Attaining a solvent Unemployment Insurance Trust Fund and a competitive UI system
- Making Arkansas's civil justice system nationally competitive

Here are our accomplishments related to those priorities:

TAXPAYER FAIRNESS

SB 490 by Sen. Bill Sample and Rep. Ken Bragg was our plan to strengthen the standing of taxpayers in Arkansas. This was accomplished by the adoption of SB 490, which was signed into law yesterday. This bill will stop pay to play, extend the tax rebate period from six months to one year, create transparency in guidance and rulings, reduce the taxpayer's burden of proof from clear and convincing to a preponderance of evidence and pushes the state corporate income tax filing deadline back one month effective in tax year 2017. Thanks to our legislative sponsors for their leadership on this bill, all members that voted for the bill and to the leadership at the Department of Finance and Administration who worked diligently with us to resolve issues.

SALES TAX REDUCTION FOR MANUFACTURES ONREPAIR AND REPLACEMENT PARTS

SB 332 by Sen. Jake Files and Rep. Joe Jett will expand the number of companies that take advantage of a reduction in the sales taxes on their repair and replacement of machinery and equipment used directly in manufacturing that was adopted in the 2013 session. This will be accomplished by the availability of a Limited Direct Pay Sale Tax Permit. The 2013 legislation limited the sales tax reduction to those that use Direct Pay Sales Tax Permits. For many businesses acquiring a Direct Pay Sales Tax Permit was not generally needed and not worth the audit exposure to acquire solely for this limited sales tax reduction. The Department of Finance and Administration worked diligently to develop the Limited Direct Pay Sale Tax Permit that can be used by companies which only desire a permit for this limited sales tax reduction. The tight budget did not allow us to achieve our desire to increase or eliminate entirely this type of sales tax. We will continue to push on this until this sales tax is eliminated. Thank you to our sponsors, supporters and DFA.

WORKFORCE DEVELOPMENT ISSUES

SB 368 by Sen. Jane English and Rep. Charlotte Douglas will replace the State Board of Career Education with the Career Education and Workforce Development Board. Members are

appointed by the Governor to 3-year terms and each voting member will represent specific industry sectors. Non-voting members will represent Education, Higher Education, Career Education and Economic Development. The Board's duties will be to create and monitor a comprehensive, statewide career and workforce education program focused on educational and career opportunities. It also creates the Office of Skills Development to administer and award grants to public and private organizations for the development and implementation of workforce training programs for new and incumbent workers.

This bill is now Act 893 and creates the foundation for improving the workforce education system in Arkansas. We are grateful to Senator English for taking on this significant effort. Thanks also to Rep. Douglas and all members that supported this bill.

SB 371 by Sens. Jane English and Bobby Pierce will expand the opportunity for higher education institutions to provide concurrent and technical courses to students in grades 8-12. Thanks again to Sen. English, Sen. Pierce and all members who supported this bill.

UNEMPLOYMENT INSURANCE ISSUES

HB 1540 by Rep. Lane Jean, Sen. Jim Hendren and Sen. Bart Hester is now Act 412. This is a significant measure that will reduce the expenses of the AR Unemployment Insurance Trust Fund by between \$46 and \$56 million per year. Employers' payroll taxes are the sole source of revenue for this Trust Fund and employers suffered greatly when this Fund went broke in 2009. It is our desire to assure the long term solvency of this Fund to protect employers from UI tax increases related to the Fund's financial status. The savings are accomplished by changing the calculation of the weekly UI benefit amount from the highest quarter of earnings to the average of the last four quarters of earnings and reduce the weeks of coverage from 25 to 20. Thank you to Rep. Jean, Senators Hendren and Hester for their leadership on this important bill for business and to all members for their support.

CAPITAL GAINS INCOME TAX EXEMPTION

The 89th General Assembly adopted a reduction in the Arkansas Capital taxes. Early in this 90th General Assembly those reductions from 2013 were removed to provide budget flexibility to help Gov. Hutchinson achieve his campaign promised middle class income tax cut. However, there was a desire to reinstate the capital gains reduction in this session if possible and that was accomplished.

HB 1402 by Rep. Matthew Shepherd and Sen. Jake Files was the bill that accomplished the return of the capital gains tax reduction. It is phased in over the next couple of years but does fully restore the reductions from 2013. Thank you to Rep. Shepherd, Sen. Files and all members for their support.

CIVIL JUSTICE REFORM

We accomplished two important steps to improve the civil liability environment in Arkansas. These first steps are part of a long range plan. Our bills this session addressed Transparency in Public Attorney Contracts (TIPAC) and Lawsuit Lending.

TIPAC

SB 204 by Senator Jane English and Rep. Karilyn Brown ensures 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 and ensures that government attorneys retain control of litigation and those consumers, victims, and taxpayers receive their fair share of any recovery.

LAWSUIT LENDING

SB 882 by Sen. Jason Rapert will prohibit consumer lawsuit lending or purchasing of a contingent right to a share of a settlement. It would also make violations of this Act a deceptive and unconscionable trade practice and subject to its penalties.

Thank you to Senators English and Rapert and Rep. Brown and all members who supported these important pieces of civil justice reform legislation.

WORKERS' COMPENSATION

Act 796 of 1993 provided Arkansas with one of the best and least expensive workers' compensation systems in America. Our law has been copied by Oklahoma and is under consideration by other states as well. The State Chamber/AIA's constant priority is to protect this Act and once again no bills were passed in in this session to weaken our workers' compensation laws.

The AR Workers' Compensation Commission will continue to have the burden of dealing with a large insolvency in its Death and Permanent Disability Trust Fund that was reported as \$131 million insolvent in June of 2014. Because this Fund is funded solely by employers through a 3% premium tax on their workers' compensation premiums, we will continue to monitor the situation and will evaluate solutions proposed by the Commission.

STATE CHAMBER/AIA BILL TRACKING

This session, the House filed 1007 bills and the Senate filed 1055. The State Chamber/AIA tracked 535 bills and resolutions. *A complete, searchable list of bills being tracked can be reviewed in our [tracking site](#).* The full text of each bill is available at the site.

THANK YOU FOR READING AND TAKING ACTION

We thank all of you for reading this Daily Update. It is a labor of love for Kenny and Angela who spend as much as four hours a day in preparation and writing. Jeff does a great job editing and then dealing with the computer issues that arise from sending a large bulk email. Andrew and Holly also contributed information on specific issues this session.

There is no question that this is a powerful grass roots tool. We know many legislators read it and react to our positions. We are most grateful to all members for noting and responding to our issues and positions.

The most powerful part of this process, however, is when our members read this and make contact with their legislators about issues. This teamwork between our staff, our members and the General Assembly creates a framework to advance the economic vitality of Arkansas.

LEGISLATIVE SESSION INFORMATION

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

State Chamber/AIA Staff:

Randy Zook, President/CEO: rzook@arkansasstatechamber.com

Kenny Hall, Executive Vice President: khall@arkansasstatechamber.com

Angela DeLille, Director of Governmental Affairs: adelille@arkansasstatechamber.com

Andrew Parker, Director of Governmental Affairs: aparker@arkansasstatechamber.com

State Chamber/AIA phone: (501) 372-2222

State Chamber/AIA web site: www.arkansasstatechamber.com