



# Daily Legislative Update

Friday, February 20, 2015

40<sup>th</sup> Day of 90<sup>th</sup> General Assembly

## STATE CHAMBER/AIA PRIORITY BILLS

### TAXES

#### PROHIBIT CONTINGENT FEE AUDITS

**SB 470** by Sen. Ronald Caldwell, which was filed yesterday, is the second piece of our tax package to be filed. The bill would prohibit state agencies and political subdivisions from engaging auditors or appraisers on a contingency fee basis. It has been referred to the Senate State Agencies and Governmental Affairs Committee.

In some cases, state agencies are contracting with independent third-party auditors paid via contingency fee arrangements (i.e. a fee in exchange for a percentage of the increased taxes, fees or other amounts collected). Most commonly, this practice is used in the area of unclaimed property.

Contingency fee audit arrangements raise a number of concerns for taxpayers. Governments audit taxpayers with the goal of ensuring that the correct amount of tax is paid and collected. However, by nature of the arrangement, the contract auditor has an incentive to assess the highest amount of tax and a disincentive to notify the taxpayer of potential overpayments, missed deductions, tax credits or refunds.

Government audit practice is to make sure that audits are performed in an unbiased, untargeted manner. A contingency fee compensation model creates an incentive to focus on only the largest taxpayers in a jurisdiction rather than enforcing the jurisdiction's tax laws in an equitable manner to ensure compliance across all taxpayer classifications.

Additionally, contingency fee auditors are not bound by laws and regulations protecting taxpayer privacy. In all states, law and regulations are passed and implemented to ensure taxpayers' privacy. Such laws and regulations do not exist for contingency fee auditors.

For these reasons and more, the American Institute of Certified Public Accountants, National Conference of State Legislatures, and the Council on State Taxation and Tax Executives Institute each encourage states to eliminate the use of contingency fee auditors for all types of taxes, fees and unclaimed property assessments.

### **MANUFACTURING REPAIR AND REPLACEMENT PARTS SALES TAX EXEMPTION SB**

**332** by Sen. Jake Files and Rep. Joe Jett remains on the Senate Revenue and Taxation Committee agenda. The bill seeks a further and 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% to 2.5% 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 sale and use tax permit from the Arkansas Department of Finance and Administration.

### **TAXPAYER FAIRNESS**

We expect the third piece of our tax package to be filed within the next week. It will be sponsored by Senator Bill Sample and Rep. Ken Bragg. The bill addresses issues such as pay to play, interest rates, burden of proof, statutes of limitation and transparency.

### **UNEMPLOYMENT INSURANCE**

Our bill on Unemployment Insurance (UI) has been drafted and a couple technical corrections are being made. We expect it to be filed early next week. It will be sponsored by Rep. Lane Jean and Senators Jim Hendren and Bart Hester. The bill will seek to reduce the expenses of the AR UI Trust Fund to help it attain and maintain solvency.

### **WORKERS' COMPENSATION**

Our bill on Workers' Compensation is in the hands of lead sponsor Rep. Matthew Shepherd and will be co-sponsored by Senator John Cooper. We expect it to be given to drafting right away so we can internally review it before filing. Filing is most likely to occur the week after next. The bill will offer a solution to the unfunded liability of the Workers' Compensation Commission's Death and Permanent Disability Trust Fund and restore subrogation to workers' compensation cases.

### **TODAY AT THE CAPITOL**

The House and Senate will stand in recess until Monday, February 23<sup>rd</sup>.

### **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. We had been told by multiple sources that the bill was not coming up.

Today, an opinion article in the statewide newspaper and a blog post by one of the lead organizations supporting the bill stated the bill would come up for a vote on the House floor next week.

Based upon additional investigation today, we think the most likely scenario is we can expect an amendment to be brought forth. We will review and comment on any such amendments.

Earlier this week, the State Chamber/AIA organized a coalition of businesses, business associations and professional associations, in less than two days, with strong opposition to this bill. The grassroots opposition generated by the coalition had an impact on the bill's potential progress. Again, we thank those who made contacts and the many legislators who expressed opposition.

The State Chamber/AIA and the coalition members understand that there are always overreaches in government administration and the licensing operation in Arkansas is no exception. To that extent, it is not the business community's intent to stand in the way of responsible free-market and regulatory reforms. However, this bill is much too broad and "throws the baby out with the bath water."

A better policy approach would be to identify those occupations with rules that are indeed punitive or anti-competitive and address them individually. This bill, as currently written, makes no attempt to determine which, if any, of the current licensing requirements are not needed to protect the public, it simply throws all of them into question.

**If your business or organization would like to join this coalition, please email Kenny Hall at [khall@arkansasstatechamber.com](mailto:khall@arkansasstatechamber.com).**

## **HIGHWAY BILL**

**HB 1346** by Rep. Dan Douglas received a Do Pass recommendation from the House Transportation Committee yesterday. It is on Monday's House calendar. This bill would allocate monthly any sales and use tax revenue from various sources above \$2.2 billion to various entities for highways and roads improvements. [Here](#) is a report on yesterday's hearing by Roby Brock at Talk Business.

## **PRISONS**

Sen. Jeremy Hutchinson and Rep. Matthew Shepherd introduced **SB 472** yesterday, which implements Governor Hutchinson's Prison Expansion and Public Safety plan. Titled "The Criminal Justice Reform Act of 2015," the bill makes various revisions to provisions for criminal

justice including parole, recidivism, inmate health care and Medicaid reimbursements, among other related issues.

## **PAYROLL REQUIREMENTS**

**HB 1277** by Rep. Greg Leding provides that wages are due and payable on the date an employee is discharged or when the employer refuses to further employ the individual. It is not currently shown on a committee agenda. We have been contacted by human resource professionals who have a wide range of concerns about this bill.

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

To date, the House has filed 425 bills and the Senate has filed 472 bills.

The State Chamber/AIA is tracking 219 bills and resolutions.

New bills added to State Chamber/AIA tracking today:

- [HB 1410](#) [Sabin, Warwick \(D\)](#) Increases the maximum investment tax credit that may be issued per year by the Department of Finance and Administration to \$5,000,000, increasing to \$10,000,000 beginning July 1, 2017.
- [HB 1411](#) [Sabin, Warwick \(D\)](#) Exempts from state income tax that income earned by an artist residing within an arts and cultural district from sale or publication of art work created within the district.
- [HB 1412](#) [Fite, Charlene \(R\)](#)  
[Hendren, Jim \(R\)](#) Exempts from state income tax those retirement benefits and survivor benefits resulting from military service.
- [HB 1415](#) [Hickerson, Mary \(R\)](#)  
[Sample, Bill \(R\)](#) Revises the classifications of commercial motor vehicles, provides retesting bond requirements for third-party CDL testers, and extends the testing waiver for people recently employed by the military from 90 days to 12 months.
- [HB 1417](#) [Womack, Richard \(R\)](#)  
[Rapert, Jason \(R\)](#) Revises health benefit plan coverage requirements for craniofacial anomaly reconstructive surgery; requires approval of procedure by cleft-craniofacial team approved by the American Cleft Palate-Craniofacial

Association.

- [HB 1418](#) [Whitaker, David \(D\)](#) Adds provision to the Civil Service Law to assure compliance with the federal Uniformed Services Employment and Reemployment Rights Act of 1994 as in effect January 1, 2015.
- [HB 1422](#) [Bell, Nate \(R\)](#)  
[English, Jane \(R\)](#) Makes various changes to elections and changes the dates on which certain elections can be held, including local option elections, school elections, college tax levy elections, voluntary fire department levies, referendum elections, etc.
- [HB 1423](#) [Bell, Nate \(R\)](#) Requires 90 percent of punitive damage awards to be judged in favor of the state for deposit in the Tax Relief Fund (created herein) to become general revenues and be used as directed by the General Assembly.
- [SB 457](#) [Hester, Bart \(R\)](#) Amends provisions related to the practice of ophthalmic dispensers. (Shell bill)
- [SB 459](#) [Johnson, David \(D\)](#) Revises the definition and penalties for criminal violations of shoplifting; theft of rented property, scrap metal, public benefits, communication services; hot check offenses; DWI; other.
- [SB 466](#) [Irvin, Missy \(R\)](#) Requires health benefits plans to publish on their websites all drug formulary costs, benefits, and expenses for prescription drug coverage in clear and ordinary terms, effective beginning January 1, 2017.
- [SB 468](#) [Caldwell, Ronald \(R\)](#) Prohibits the certification of additional new market tax credits after effective date of this act.
- [SB 470](#) [Caldwell, Ronald \(R\)](#) Prohibits state agencies and political subdivisions from engaging auditors or appraisers on a contingency fee basis.
- [SB 472](#) [Hutchinson, Jeremy \(R\)](#)  
[Shepherd, Matthew \(R\)](#) The Criminal Justice Reform Act of 2015; makes various revisions to provisions for criminal justice, parole, recidivism, inmate health care and Medicaid reimbursements, and related issues.

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.

## **NEXT WEEK AT THE CAPITOL**

House convenes Monday at 1:30 p.m.  
Senate convenes Monday at 1:30 p.m.

### Committee Meetings for Monday, February 23, 2015

#### JOINT

10:00 AM	Room 130	<a href="#">PUBLIC RETIREMENT &amp; SOCIAL SECURITY PROGRAMS- JOINT</a>	<a href="#">Agenda</a>
Upon Adjournment of Both Chambers	Room 171	<a href="#">STATE &amp; PUBLIC SCHOOL LIFE &amp; HEALTH INSURANCE TASK FORCE</a>	<a href="#">Agenda</a>

#### HOUSE

10 Minutes Upon Adjournment	Room 138	<a href="#">AGRICULTURE, FORESTRY &amp; ECONOMIC DEVELOPMENT- HOUSE</a>	<a href="#">Agenda</a>
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#### SENATE

None listed.

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

To view live stream video and audio from the Arkansas House of Representatives,  
visit [www.arkansashouse.org](http://www.arkansashouse.org).

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