



# Daily Legislative Update

Friday, February 27, 2015

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

## STATE CHAMBER/AIA PRIORITY BILLS

### TAXES

#### TAXPAYER FAIRNESS

**SB 490** by Sen. Bill Sample and Rep. Ken Bragg seeks to eliminate requiring taxpayers to pay taxes before they can challenge a tax ruling, lessen the burden of proof for taxpayers, adjust application of statute of limitations, create transparency in DFA rulings, move the corporate income tax filing date to one month after IRS filing and other provisions. A provision to change the interest rate will be pulled from this bill and placed in a separate bill to avoid revenue impact concerns.

Cities and counties have major concerns with the bill's extension of a tax rebate period from six months to match all other tax rebate provisions of three years. They are concerned about large rebates impacting their budgets. Business owners say this is their money. Six months is not always long enough for businesses to get their records reviewed and potential rebates identified. In the Council on State Taxation's Business Friendly rankings, Arkansas is graded down because of the inconsistent rebate periods.

Plans are to present the bill in the Senate Revenue and Taxation Committee next Wednesday, March 4. Please ask your legislators to support 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 next Wednesday, March 4. The bill seeks a further and then a 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. DFA has presented an option for us to consider on the Direct Pay Sales and Use Tax Permit that we are evaluating.

The challenge for this bill is its revenue impact. But it is an effort to make Arkansas more competitive with our surrounding states where we are badly out of step. DFA is concerned about requiring the Direct Pay Permits. However, many, if not most, businesses see this is an unnecessary inconvenience. We are looking at options, but this is a requirement we definitely want to see removed.

This bill will also be presented to the Senate Revenue and Taxation Committee next Wednesday, March 4. Please ask your legislators to support SB 332!

## **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 next week.

## **UNEMPLOYMENT INSURANCE**

**HB 1489** was filed yesterday by Rep. Lane Jean and Senators Jim Hendren and Bart Hester. It will be assigned to the House Revenue and Taxation Committee and the sponsor plans to run the bill next Thursday, March 5. Please ask your legislators to support HB 1489!

The bill seeks to reduce the expenses of the Arkansas Unemployment Insurance (UI) Trust Fund by changing the calculation of an individual's unemployment insurance 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

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, but fell to a negative \$362 million in 2010. This debt increased employers' UI Taxes by up to as much as \$132 per employee to pay off the debt and pay interest on the debt. We do not want his situation to ever occur again!

Approximately \$100 of the increased per employee UI taxes went away on 2014 UI taxes due in 2015 and more will reduce in the future. However, the U.S. Department of Labor (USDOL) is tightening its loan standards because of the 32 states that borrowed more than \$30 billion in 2009-2010. The current estimate of what the Arkansas UI Trust Fund balance should be to meet USDOL solvency guidelines is \$642 million. That amount is certainly debatable, but even a \$500 million balance will take some time to achieve. The most recent information we have from the Arkansas Department of Workforce Services is a balance of \$232.7 million at year-end 2014, \$325 million at year-end 2015 and \$360.7 million at year-end 2016. What happens if another recession hits?

The Arkansas unemployment 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 think Arkansas's 46<sup>th</sup> 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 is 29.5 percent.

Historically, all states provided up to 26 weeks of UI benefits. A variety of federal extensions allowed that number to grow to around 75 in Arkansas during the Great Recession and up to as much as 99 weeks in some states. All of these extensions have gone away. Studies done in some states during the recession indicated a high percentage of unemployed workers returned to work when their benefits ended.

Arkansas reduced its weeks of coverage from 26 to 25 in the 2011 session like other states that were looking to reduce their trust fund debt. Approximately a handful of states are now at 20 weeks and this is a topic of discussion nationally. In Arkansas, the most recent numbers we have indicate that the average time an unemployed worker draws unemployment benefits is 14.5 weeks.

HB 1489 is designed to help the Arkansas UI Trust Fund achieve solvency as soon as possible. It also would help maintain Arkansas UI Trust Fund solvency 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.

## **WORKERS' COMPENSATION**

Our bill on Workers' Compensation is in the hands of lead sponsor Rep. Matthew Shepherd and will be co-sponsored by Sen. John Cooper. We are awaiting a draft. The bill offers a solution to the unfunded liability of the Workers' Compensation Commission's Death and Permanent Disability Trust Fund and would restore subrogation to workers' compensation cases.

## **TODAY AT THE CAPITOL**

House convenes 10:00 a.m.

Senate is adjourned until 1:30 p.m. on Monday

## **JOINT**

None listed.

## HOUSE

9:00 AM	Room 151	<a href="#">STATE AGENCIES &amp; GOVT'L AFFAIRS- HOUSE</a>	<a href="#">Agenda</a>
9:00 AM	Room 149	<a href="#">INSURANCE &amp; COMMERCE- HOUSE</a>	<a href="#">Agenda</a>
9:00 AM	Room 138	<a href="#">AGRICULTURE, FORESTRY &amp; ECONOMIC DEVELOPMENT- HOUSE</a>	<a href="#">Agenda</a>
15 Minutes Upon Adjournment	Room 151	<a href="#">STATE AGENCIES &amp; GOVT'L AFFAIRS- HOUSE</a>	<a href="#">Agenda</a>

## SENATE

None listed.

## HIGHWAY BILL

**HB 1346** by Rep. Dan Douglas is on today's House calendar. 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 highways and roads improvements.

## BILLS OF INTEREST

### GUNS ON EMPLOYER'S PROPERTY

**SB 492** by Sen. Jimmy Hickey and Rep. DeAnn Vaught was defeated in the Senate Judiciary Committee yesterday. 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. Sen. Hickey has the option to bring the measure before the committee for another vote.

**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 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.

## **FIREFIGHTER DEATH BENEFIT**

**HB 1274** was amended and received a Do Pass recommendation from the House State Agencies and Governmental Affairs Committee on Wednesday. The amendment was formally adopted yesterday. The bill is not on this morning's House Calendar. The bill would provide a \$150,000 award for certain public employees killed in the line of duty 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.

## **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 passed the full Senate yesterday on a vote of 33-0 and has been assigned to the House Public Health, Welfare and Labor Committee. The State Chamber/AIA supports this bill.

Project Labor Agreements (PLA) are nothing more than wasteful market recovery programs for unions that need to rebuild their membership. Government required PLA's give favor to contractors that agree to use organized labor. If a PLA is required on government-funded or assisted projects in Arkansas, this would make it nearly impossible for the 97.4 percent of the construction workforce in the state to compete on an equal basis for construction projects. Common PLA provisions increase construction costs by reducing competition from qualified merit shop contractors. As a result, PLAs are known to increase costs by as much as 20 percent.

In 2005, Governor 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 PLA's 21.

## **EMISSIONS PLAN FOR POWER PLANTS**

**SB 183** Sen. Eddie Joe Williams, which has been amended four times, received a Do Pass recommendation from the Senate Committee on Public Health, Welfare and Labor.

## 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.

The State Chamber/AIA and the coalition members listed below believe the bill as filed was much too broad and “throws the baby out with the bath water” in an attempt to address individual claims of overreaching government regulation.

A meeting with the bill’s lead sponsor has been rescheduled for Monday afternoon.

The Arkansas Association of Real Estate Inspectors has now joined 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 and Arkansas Asphalt Pavement Association in this coalition.

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

## HUMAN RESOURCES ISSUES

Rep. Greg Leding’s bills, which we have been reporting about, continue to be of concern to the business community and remain on committee agendas.

**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. The bill is on the 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. HB 1277 is also on the House Public Health, Welfare and Labor Committee agenda.

## **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.

## **EMINENT DOMAIN**

We note that **HB 1490** was filed yesterday addressing the eminent domain issue. The short title is below. We have not had a chance to look into this, but wanted to give a heads-up to those who might be interested.

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

To date, the House has filed 491 bills and the Senate has filed 638 bills.

The State Chamber/AIA is tracking 259 bills and resolutions.

New bills added to State Chamber/AIA tracking today:



<a href="#"><u>HB 1455</u></a>	<a href="#"><u>Boyd, Justin (R)</u></a>	Revises the qualifications for appraiser members of the Appraiser Licensing and Certification Board; revises members comprising the group that recommends the financial members to the governor.
<a href="#"><u>HB 1466</u></a>	<a href="#"><u>Shepherd, Matthew (R)</u></a>	Adds to law placing limits on the sale of ephedrine, pseudoephedrine or phenylpropanolamine a provision that it does not preclude a pharmacist from dispensing products containing those products to new customers.
<a href="#"><u>HB 1468</u></a>	<a href="#"><u>Womack, Richard (R)</u></a> <a href="#"><u>Maloch, Bruce (D)</u></a>	Allows granting of shared leave to public employees for paternity and maternity leave after birth or adoption of a child or receipt of a foster child. Specifies requirements for substantiation of each.
<a href="#"><u>HB 1472</u></a>	<a href="#"><u>Pitsch, Mat (R)</u></a> <a href="#"><u>Files, Jake (R)</u></a>	Creates the Rail Development Grant Program to provide financial assistance to various entities for costs of improving rail service; funded from property taxes and penalties collected from rail companies; administered by the Highway Department.
<a href="#"><u>HB 1474</u></a>	<a href="#"><u>Smith, Brandt (R)</u></a> <a href="#"><u>Cooper, John (R)</u></a>	Makes rulings from courts, arbitration or administrative agencies void and unenforceable if the ruling is based on any foreign law, legal code or system that does not grant the same rights as the U.S. Constitution.
<a href="#"><u>HB 1487</u></a>	<a href="#"><u>Leding, Greg (D)</u></a>	Creates an income tax exemption for recipients of scholarships or educational awards from nonprofit service organizations.
<a href="#"><u>HB 1489</u></a>	<a href="#"><u>Jean, Lane (R)</u></a> <a href="#"><u>Hendren, Jim (R)</u></a>	Changes the basis for weekly unemployment benefits from 1/26th of wages for the highest base period quarter to 1/26th of the average for the four quarters of base period. Reduces maximum benefits per year from 25 to 20 times the weekly benefit.
<a href="#"><u>HB 1490</u></a>	<a href="#"><u>Ballinger, Bob (R)</u></a>	Strikes procedures for using eminent domain by various entities, making all subject to procedure prescribed in new code created at § 18-15-103 (Bill Section 87), in which a circuit court jury will



decide compensation of land owner.

[SB 631](#)   [Hester, Bart \(R\)](#)  
[Womack, Richard](#)  
[\(R\)](#)

Increases from \$20,000 to \$50,000 the project cost threshold that requires management by a licensed general contractor.

[SB 632](#)   [Teague, Larry \(D\)](#)

Amends provisions concerning the offset allowed against the premium tax credit. (Shell bill)

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


Committee Meetings for Monday, March 2, 2015

### JOINT

10:00 AM	Room 171	<a href="#">ENERGY - JOINT</a>	<a href="#">Agenda</a>
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10:00 AM	Room 130	<a href="#">PUBLIC RETIREMENT &amp; SOCIAL SECURITY PROGRAMS-JOINT</a>	<a href="#">Agenda</a>
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11:00 AM	Room 149	<a href="#">ARKANSAS LEGISLATIVE BLACK CAUCUS</a>	
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Upon Adjournment of Both Chambers	Room B, MAC	<a href="#">JBC-CLAIMS</a>	<a href="#">Agenda</a> 
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### HOUSE

30 Minutes upon Adjournment	Room 151	<a href="#">STATE AGENCIES &amp; GOVT'L AFFAIRS- 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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