



## Daily Legislative Update

Friday, March 6, 2015

54th Day of 90<sup>th</sup> General Assembly

### TODAY AT THE CAPITOL

House convenes at 11:00 a.m.

Senate is adjourned until 1:30 on Monday

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

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

### STATE CHAMBER/AIA PRIORITY BILLS

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

### UNEMPLOYMENT INSURANCE

**HB 1489** by Rep. Lane Jean and Senators Jim Hendren and Bart Hester received a Do Pass recommendation from the House Revenue and Taxation Committee yesterday morning. It is on today's House Calendar to adopt an amendment that adds a large number of sponsors. It is expected to be considered on the House floor Monday afternoon. 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 U.S. Department of Labor (USDOL) solvency calculations indicate Arkansas UI Trust Fund should have \$642 million
  - Highest Arkansas UI Trust Fund balance \$265 million in 2000
  - Lowest Arkansas UI Trust Fund balance (\$362) million in 2010
  - Arkansas Department of Workforce Services (ADWS) Third 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 (Fund Can Meet Needs of a Worst Case Recession)**

- Protects Arkansas employers from UI tax increases
  - 2010 Debt increased Arkansas UI taxes annually—up to about \$180 more per employee!
  - Reduces risk of USDOL 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 Arkansas UI claim lasts 14.5 weeks (duration) –well below new 20-week maximum
    - Duration in states with lowered maximum number of 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
  - Arkansas is highest among our contiguous states
  - Mississippi is the lowest at 24.7 percent
  - Median is 29.5 percent

## TAXPAYER FAIRNESS

**SB 490** by Sen. Bill Sample and Rep. Ken Bragg received a DO PASS recommendation from the Senate Revenue and Taxation Committee Wednesday morning! It is on Monday's Senate Calendar for consideration. 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.

## TIPAC

**SB 204** by Senator Jane English and Rep. Karilyn Brown remains on the House Judiciary Committee agenda. 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.

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

### **WORKERS' COMPENSATION**

Our Workers' Compensation bill will be filed today or Monday by Rep, Matthew Shepherd. The bill is co-sponsored by Senators John Cooper and David Sanders. 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 awaits consideration 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 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, Rep. Bill Gossage and others

## **NEW BILLS OF INTEREST**

**SB 727** by Sen. Terry Rice and Rep. John Baine authorizes public utilities to recover through an interim surcharge the construction and equipment funds spent for required compliance with legislation or administrative rules. It also provides for waiver of major utility facility construction hearings.

## **CONTINUING BILLS OF INTEREST**

### **GUNS ON EMPLOYERS' PROPERTY**

**SB 492** by Sen. Jimmy Hickey and Rep. DeAnn Vaught is on Monday's agenda in the Senate Judiciary Committee. The bill would authorize employees with concealed-carry permits (CHCL) to keep their handguns locked and stored out of site in vehicles 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. It is on Monday's agenda in the Senate Judiciary Committee.

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.

## **HUMAN RESOURCES ISSUES**

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

**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. Compliant employers will bear the cost of this bill's requirements through added administrative costs making sure what they are doing is compliant. True "bad actors" don't comply with the existing laws on payment of wages. We disagree that adding a new burden to the compliant employers will make the "bad actors" decide to start comply with the law. It is on today's House Calendar to adopt an amendment.

**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. This bill is on today's House Calendar to adopt an amendment. The sponsor advised earlier that he was considering an amendment to require exiting employees at the next pay period.

Laws currently exist on the timing of when a non-exempt employee gets paid. Manipulating the date for discharged employees is unnecessary and duplicative. There is also a difference between a pay period and a pay day. The pay date for a pay period rarely occurs simultaneously with the end of the pay period—an employee could be discharged after the end of the pay period but before the pay date for that previous pay period.

We have heard from more than one employment attorney that this bill addresses a bad, antiquated statute. A saving grace for employers is a requirement that if the employee makes a demand within a period of time to invoke the protections of the statute. This bill may take away the demand requirement. This statute is a problem and this bill doesn't keep bad actors from continuing to ignore this law.

**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 is not currently on a Committee Agenda.

## **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. It has been referred to the House Public Health, Welfare and Labor Committee.

## **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 on yesterday'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.

### **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. It was amended yesterday.

### **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 land owners. It is on the House Judiciary Committee Agenda.

## STATE CHAMBER/AIA BILL TRACKING

To date, the House has filed 702 bills and the Senate has filed 841 bills.

The State Chamber/AIA is tracking 372 bills and resolutions.

New bills added to State Chamber/AIA tracking today:

<a href="#">HB 1655</a>	<a href="#">Collins, Charlie (R)</a>	<b>Revises rate making procedures for public utilities. (Shell bill)</b>
<a href="#">HB 1662</a>	<a href="#">Jett, Joe (D)</a>	Exempts from sales and use tax the services required to install parts in commercial jet aircraft that is already tax exempt; exempts from sales and use tax the sale of aircraft within the state.
<a href="#">HB 1663</a>	<a href="#">Cozart, Bruce (R) &amp; English, Jane (R)</a>	<b>Increases per-student foundation funding for school year 2015-16 from \$6,393 to \$6,584 and to \$6,646 for 2016-17. Revises other categories of school and transportation funding.</b>
<a href="#">HB 1665</a>	<a href="#">Bennett, Camille (D)</a>	Requires notice of abandoned property to be published in a newspaper of general circulation in each county of the state, rather than only counties in which is located the last known address of any person named in the notice.
<a href="#">HB 1668</a>	<a href="#">Vines, John (D)</a>	Regulates the practices of collection agencies. (Shell bill)
<a href="#">HB 1679</a>	<a href="#">Gates, Mickey (R)</a>	Amends law concerning independent contractors. (Shell bill)
<a href="#">HB 1681</a>	<a href="#">Gates, Mickey (R)</a>	<b>Amends all public notice provisions for governmental entities to require any public notice be given in a newspaper, on a website, or both.</b>
<a href="#">HB 1682</a>	<a href="#">Tucker, Clarke (D)</a>	Creates a process by which persons eligible to register to vote can do so in person at the time of voting by completing an application, providing proof of identity, and making an oath attesting to his or her identity and residence.
<a href="#">HB 1687</a>	<a href="#">Ballinger, Bob (R)</a>	Provides a ballot form for all proposed local ballot initiatives and referred ordinances.
<a href="#">HB 1688</a>	<a href="#">Ballinger, Bob (R)</a>	Provides a 60-day period to the sponsor of a municipal initiative and referendum petition for circulation.
<a href="#">HB 1689</a>	<a href="#">Ballinger, Bob (R) &amp; Stubblefield, Gary (R)</a>	Clarifies that the award of attorney's fees for successful illegal exaction actions are regardless of the amount actually claimed

by the class members.

<a href="#">HB 1691</a>	<a href="#">Leding, Greg (D)</a>	Privacy (Access to Government Records)
<a href="#">HB 1695</a>	<a href="#">Hodges, Grant (R)</a>	Amends various provisions of Title 6 of the Arkansas Code. (Shell bill)
<a href="#">HB 1696</a>	<a href="#">Hodges, Grant (R)</a>	Amends provisions relating to education. (Shell bill)
<a href="#">HB 1697</a>	<a href="#">Hodges, Grant (R)</a>	Revises the historic rehabilitation income tax credit, increasing the maximum credits available annually from \$4,000,000 to \$20,000,000; increasing qualifying expenses on income-producing property from \$500,000 \$8,000,000.
<a href="#">HB 1698</a>	<a href="#">Douglas, Charlotte (R)</a>	<b>Increases the penalty for not complying with the county assessor or the appointed deputy regarding delinquent property taxes from a maximum of \$25 to an amount equal to 3 years of taxes on the property.</b>
<a href="#">HB 1701</a>	<a href="#">Sabin, Warwick (D)</a>	<b>Requires that enhanced notice of new environmental permits issued by the Department of Environmental Quality that impact the local physical environment must be sent to a named list of potentially affected parties.</b>
<a href="#">SB 800</a>	<a href="#">Rapert, Jason (R) &amp; Davis, Andy (R)</a>	Establishes regulation of transportation network company services that use electronic networks to connect passengers to the companies' transportation service provided by network company drivers.
<a href="#">SB 801</a>	<a href="#">Rapert, Jason (R)</a>	<b>Expands the use of sand and other proppants that are exempt from sales and use tax to include use to re-complete, re-drill or expand an existing oil or gas well.</b>
<a href="#">SB 802</a>	<a href="#">Rapert, Jason (R)</a>	<b>Specifies sales of solid wastes including yard, glass, metals, plastic, paper are subject to sales and use tax; exempts from taxable solid waste saltwater, fracking fluids, pit water, etc. produced in natural resource exploration and development.</b>
<a href="#">SB 803</a>	<a href="#">Hester, Bart (R)</a>	Permits persons to be candidates for more than one federal office in the same primary or general election.
<a href="#">SB 811</a>	<a href="#">Irvin, Missy (R)</a>	Revises various sections of the Arkansas Code to comply with the Attorney General's State Task Force on Human Trafficking. (Shell bill)
<a href="#">SB 812</a>	<a href="#">Johnson, Blake (R) &amp; Murdock, Reginald (D)</a>	Deletes the requirement schools must use EXPLORE, PLAN or PSAT in student assessment, specifying instead they use a college and career readiness assessment approved by the State Board of Education.

<a href="#"><u>SB 813</u></a>	<a href="#"><u>Johnson, Blake (R) &amp; Murdock, Reginald (D)</u></a>	Deletes the requirement the State Board of Education mandated testing of academic performance of students be based on augmented, criterion-referenced or norm-referenced assessment.
<a href="#"><u>SB 814</u></a>	<a href="#"><u>Pierce, Bobby (D)</u></a>	Adds to law regarding repair of underground facilities provision that if the operator does not repair a damaged facility within one working day after notification of the damage the operator is responsible for actual damages to the excavation.
<a href="#"><u>SB 817</u></a>	<a href="#"><u>Williams, Eddie Joe (R)</u></a>	Provides for electronic registration and reporting to the Secretary of State by political action committees.
<a href="#"><u>SB 828</u></a>	<a href="#"><u>Sanders, David (R)</u></a>	Creates the Arkansas Health Insurance Innovation Legislative Steering Committee, specifying membership. Authorizes the Arkansas Health Insurance Marketplace to adopt rules to implement additional federal waivers.
<a href="#"><u>SB 832</u></a>	<a href="#"><u>Chesterfield, Linda (D)</u></a>	<b>Creates the Arkansas Center for Workforce Innovation and Strategic Economic Public-Private Partnership, designed by the Department of Higher Education to create certificate and degree programs to meet workforce education goals.</b>
<a href="#"><u>SB 833</u></a>	<a href="#"><u>Maloch, Bruce (D)</u></a>	<b>Provides a revised method for valuation of piping and equipment used in natural gas production.</b> (Shell bill)
<a href="#"><u>SB 834</u></a>	<a href="#"><u>Elliott, Joyce (D)</u></a>	Exempts from state income tax awards, grants and scholarships received by a resident from a nonprofit volunteer service organization to attend an institution of higher education or to repay student loans.
<a href="#"><u>SB 836</u></a>	<a href="#"><u>Irvin, Missy (R) &amp; Fite, Lanny (R)</u></a>	Requires counties to monthly transmit property tax data to the Association of Arkansas Counties via electronic transfer beginning on or before Jan. 1, 2016.

***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:  
[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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