



## Daily Legislative Update

Friday, March 27, 2015

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

### TODAY AT THE CAPITOL

Senate convenes at 9:00 a.m.

House convenes at 10:00 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)

The legislature continues to work hard in an effort to adjourn by the middle of next week. Many committees are meeting twice a day and first consideration of bills in committee is likely over. The Senate and House floor sessions have been long all week and both have gone into session early today.

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

**Ask your legislators to support SJR 16**

### ECONOMIC DEVELOPMENT

**SJR 16** by Sen. Jon Woods and Rep. Lance Eads is an effort to improve economic development in Arkansas. It was one of 40 joint resolutions filed seeking to be referred by the legislature to the 2016 General Election Ballot.

The House referred four of 24 joint resolution proposals to the Joint State Agencies Committee for further consideration. The Senate sent all 16 of their joint resolution proposals to the Joint Committee. Issues developed, causing the Joint Committee's meeting planned for this past Monday to be cancelled. All week it appeared the 90<sup>th</sup> General Assembly would make no constitutional amendment referrals to the 2016 General Election Ballot.

As the week went on, Gov. Hutchinson stepped up and began pushing for the legislature to refer SJR 16, which is backed by local chambers of commerce, local economic developers and the State Chamber/AIA. Gov. Hutchinson would also like the legislature to refer SJR 3 by Sen. Eddie Joe Williams.

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

At a luncheon hosted yesterday by the Arkansas Economic Development Foundation (AEDF) and the Arkansas Industrial & Economic Development Foundation (AIEDF), Gov. Hutchinson introduced his new head of the Arkansas Economic Development Commission. The Governor also asked economic developers from across the state to contact their state lawmakers and encourage them to support SJR3 and SJR16. Gov. Hutchinson said both would aid his economic development plank by giving him additional executive authority when he travels out of state, or has to make a quick decision concerning a so-called “super project.”

Gov. Hutchinson told the over 600 attendees, “I am convinced now more than ever that we can define our future, we can establish and create our future because of the people in the room and the opportunities we have. Arkansas is a picture waiting to be painted, a photograph waiting to be taken; a sculpture waiting to be molded. That’s Arkansas. What an incredible foundation we have – but a foundation that can grow and be known in the world economy. That’s what I want to accomplish in the coming years.”

The State Chamber/AIA asks you to join Gov. Hutchinson and our local chamber and economic development colleagues in asking the legislature to refer SJR 16 and SJR 3 to the 2016 General Election Ballot.

David Smith of the *Arkansas Democrat-Gazette* reported from yesterday’s economic development luncheon:

*SJR 16 would allow the state to issue more bonds to land super projects. “We’ll compete for [super projects], but those are unpredictable totally,” Hutchinson said. “I’m more focused on the everyday expansion of existing businesses in Arkansas as well as the less-than super projects that may add up to a great opportunity.”*

*Amendment 82, the state’s super project amendment, allows the state to issue bonds for major projects to pay for infrastructure and other needs, such as land acquisition, site preparation and employee training. The first Amendment 82 project was Big River Steel, a \$1.3 billion steel mill under construction near Osceola. “This would allow us to maximize our super projects and not be constrained and only have one or two existing at the same time because of funding constraints,” Hutchinson said.*

*The amendment would expand the amount of bonds the state could issue to help finance such projects — currently limited to 5 percent of state general revenue collected during the most recent fiscal year — by removing the 5 percent limit, said Arkansas Economic Development Commission spokesman Scott Hardin.*

*Arkansas has some distinct advantages over other states, said Randy Zook, Arkansas State Chamber/AIA president & CEO. Arkansas has one of the lowest costs of doing business in the country, Zook said. "And we have very competitive utility costs," Zook said. "Businesses that have a high utility component in their cost structure are attracted to Arkansas for that reason." Arkansas, being centrally located, has a great distribution advantage with good transportation options, including river traffic, interstate highways and railroad access, he said. "Arkansas obviously won't win all the jobs it competes for . . . but we can compete effectively," Zook said.*

**SJR 16** seeks to do the following:

- Provide an exception to the law that prevents political subdivisions from becoming a stockholder in or lend credit to private corporations by allowing the acquisition or appropriation of money for a corporation, association, institution or individual to finance economic development projects or fund economic development services.
- Changes a specific application of Amendment 62 section 1 (b)'s provisions from "application to industrial development purposes" to "economic development projects"
- Changes a specific application of Amendment 62 section 2's provisions from "facilities for the securing and developing of industry" to "economic development projects" and adds definitions of "economic development projects."
- Repeals section 3 of Amendment 62.
- Removes provisions in section 5 of Amendment 62.
- Changes a specific application of Amendment 62 section 9 from "industries," "industry or industries," and "industrial plant" to "economic development projects" and adds definitions.
- Amends Amendment 82 by removing the 5 percent of state general revenue cap on general obligation bonds to finance infrastructure or other needs to attract large economic development projects and expands the definition of "infrastructure."

## **PRIORITY BILLS**

### **CAPITAL GAINS INCOME TAX EXEMPTION**

**HB 1402** by Rep. Matthew Shepherd and Sen. Jake Files seeks to restore the capital gains tax reduction adopted in the 2013 session that was reduced at the beginning of the 2015 session. The bill is on the Senate Revenue and Taxation Committee agenda. The State Chamber/AIA supports this bill.

### **TAXPAYER FAIRNESS**

**SB 490** by Sen. Bill Sample and Rep. Ken Bragg has been delivered to the Governor for his signature after the Senate voted yesterday to concur in two House amendments. The first amendment delayed the impact of moving the corporate filing deadline back one month and the second was a technical correction. This is the State Chamber/AIA's priority tax bill for the 2015 session. If you asked a legislator to support this bill and have not already done so, please be sure to thank them.

## **WORKFORCE DEVELOPMENT**

**SB 371** by Sens. Jane English and Bobby Pierce seeks to expand the opportunity for higher education institutions to provide concurrent and technical courses to students in grades 8-12. It passed the House yesterday by a vote of 83-0 and will now be sent to the Governor for his signature. This bill was part of the State Chamber/AIA's priority issues for this session

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

**SB 332** by Sen. Jake Files and Rep. Joe Jett has been amended to delete the further and complete reduction in the sales taxes paid by manufacturers on their repair and replacement parts. The bill's revenue put it in a position making it impossible to achieve any additional tax cut in the coming biennium. However, we were able to successfully work with the Department of Finance and Administration and work out the opportunity for employers to use a Limited Direct Pay Sales Tax Permit to claim the previously adopted tax reduction. When the original tax reduction was passed in 2013, it was limited to companies that use a Direct Pay Sales Tax Permit. The "Limited" permit will make it comfortable for more companies to participate in the tax reduction.

The bill received a Do Pass recommendation from the House Revenue and Taxation Committee yesterday and is on today's House calendar.

The State Chamber/AIA supports this bill, which was adopted as a State Chamber/AIA priority issue prior to the session.

## **BILLS TO BE CONSIDERED TODAY**

### **EMINENT DOMAIN**

**HB 1908** by Rep. Rick Beck is on today's Senate calendar. As originally filed, the bill would establish the rights of property owners in dealings with entities authorized by law to exercise the power of eminent domain. An amendment requires the circuit court to impanel a 12-person jury to determine compensation, makes the state liable to the owner for court/attorney costs when the final compensation is 20 percent or more above the entity's initial assessment, changes property owner's right to "market value compensation" to "just compensation" and requires the assessment of the just compensation to be provided to the property owner or filed with the complaint for condemnation when the owner can't be located. Yesterday's amendment adds Sen. Hutchinson and Rep. Drown as co-sponsors; and provides that awards of costs, expenses, or attorney's fees under this bill in a condemnation act brought by a county or municipality are governed by the laws that authorize the condemnation action. The State Chamber/AIA has concerns about this bill.

**SB 757** by Sen. Jim Hendren establishes procedures for compensating owners whose private property is devalued as a result of state and local regulatory programs and use of eminent domain. It is on today's Senate calendar to concur in a House amendment.

### **HOLD HARMLESS CLAUSES UNENFORCEABLE**

**SB 726** by Sen. Jake Files and Rep. Reginald Murdock is on today's Senate calendar for final concurrence. This bill is similar to legislation filed two years ago that had the construction community split and the Associated Industries of Arkansas opposed. This bill rewrites the provisions that declare a construction contract with a hold-harmless clause to be unenforceable. The bill seeks to clarify that covenants and clauses are unenforceable when they are written into construction agreements that require any dispute resolution to take place in another state. The bill also provides that indemnification clauses shall not exceed any amounts that are greater than the degree of negligence or fault attributable to indemnitors, their agents, representatives, subcontractors or suppliers. The Senate Insurance and Commerce Committee voted to concur in the House amendment yesterday. The State Chamber/AIA Executive Committee voted to maintain the position established in 2013 that the Associated Industries of Arkansas is opposed to this bill while the State Chamber of Commerce is neutral.

### **CONSOLIDATING STATE AGENCIES**

**SB 382** by Sen. Eddie Joe Williams and Rep. Nate Bell addresses the issue of consolidating state agencies into 10 or more principal departments. An amendment adopted last week expands the study beyond the original 10 principal departments, removes deadlines and reorganizes uncodified language that defines the scope of the study. The bill is on the House State Agencies and Governmental Affairs Committee agenda to concur in the Senate amendment.

### **LICENSING AND PUBLIC REGULATION REVIEW**

**HB 1823** by Rep. Jim Dotson and Sen. Bart Hester received a Do Pass recommendation from the Senate Agriculture, Forestry and Economic Development Committee yesterday. It is on today's Senate calendar. As originally filed, the bill seeks to amend the state's licensing laws by requiring licensing entities to adopt reduced requirements for reinstatement of a license, registration or certification for people who can demonstrate a set of standards, achievements, etc. The bill has been amended to delete the provision that requires applicants seeking expedited reinstatement of licenses be residents of the state or prove they will be residents of the state when they practice the profession they are seeking licensure for. The amendment also requires applicants to have been previously licensed in Arkansas rather than in any state.

## **A&P TAX COLLECTION REPORTING**

**HB 1941** by Rep. Micah Neal would exempt from disclosure under the Freedom of Information Act information related to taxes collected by certain entities or industries under the Advertising and Promotion Commission Act, although the total of taxes collected may be released. It received a Do Pass recommendation from the Senate Revenue and Taxation Committee yesterday and is on today's Senate calendar.

## **EDUCATIONAL DATA SYSTEM**

**HB 1748** by Rep. Clarke Tucker and Sen. David Johnson provides for establishment of the Arkansas P20W Education Data Initiative System, a statewide longitudinal data system maintained by the Arkansas Research Center to support evaluation of public education policies and programs. It is today's House calendar for withdrawal.

## **PHARMACY BENEFIT MANAGEMENT (PBM)**

The State Chamber/AIA has historically opposed legislation that seeks to reduce the impact of PBMs. Our opposition arises from employers' concerns about elimination or reduction in pharmacy cost savings that PBMs provide to employer health plans. The State Chamber/AIA joined a long list of companies that were concerned about their pharmacy costs going up and opposed this session's PBM bills.

**SB 688** by Sen. Ron Caldwell and Rep. Michelle Gray has been delivered to the Governor for his signature.

**SB 542** by Sen. Jason Rapert and Rep. Dan Douglas is on today's House calendar.

## **YESTERDAY AT THE CAPITOL**

### **BOARDS AND COMMISSIONS**

**HB 1851** by Rep. Micah Neal amends the membership composition of various state boards, commissions and other administrative bodies. It also requires that the Governor consult with the representatives of the relevant industries before making appointments to those entities. The bill has been amended to delete proposed changes to Research and Promotion boards and make various other revisions including specifying that the Governor's many appointments are subject to confirmation by the Senate. As reported, the amendment deleted all the agriculture boards from the bill. If your organization was listed in the original draft, please review the amendment. The bill passed the House yesterday by a vote of 69-8.

## LICENSING AND PUBLIC REGULATION REVIEW

**HB 1730** by Rep. Nate Bell would create a systematic review of old rules, to prevent rules from becoming antiquated and to require approval of old rules by the legislative council. It passed the House yesterday by a vote of 59-7.

## FORMER EMPLOYEE REFERENCE FORMAT

**HB 1637** by Rep. Camille Bennett allows employer references requested from previous employers to be delivered in the media and a format convenient to the former employer. It passed the Senate yesterday by a vote of 34-0. The bill will now be transferred to the Governor's office for his signature.

## BILLS WE OPPOSE

### GUNS ON EMPLOYERS' PROPERTY

**SB 492** by Sen. Jimmy Hickey and Rep. DeAnn Vaught remains on the agenda in the Senate Judiciary Committee. 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. It also remains on the Senate Judiciary Committee agenda.

An amendment to SB 573 has been filed, but not adopted, that would require the firearm to be in a locked and stored container if the employee's duties include transport of children or adults, or if the employing facility serves children or disabled adults.

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.

## EMINENT DOMAIN

**HB 1870** by Rep. Warwick Sabin failed to gain the approval of the House Insurance and Commerce Committee last week, but will remain on the Committee's agenda. The bill addresses eminent domain by private pipeline companies.

**HB 1490** by Rep. Bob Ballinger would strike procedures 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, but we have been told Rep. Ballinger does not plan to run the bill.

**SB 753** by Sen. Bryan King would require entities exercising eminent domain to compensate property owners for reduced property value on property that is not the subject of the eminent domain proceeding. It provides that major utility facilities are not entitled to eminent domain if the utility requires parties to enter into nondisclosure agreements. The bill is on the Senate Judiciary Committee agenda.

The State Chamber/AIA has concerns about these bills.

## **UNEMPLOYMENT INSURANCE INDEPENDENT CONTRACTOR**

**HB 1679** by Rep. Mickey Gates seeks to authorize two or more persons to file an agreement with the Department of Workforce Services setting forth that a party to a contract is an independent contractor, rather than an employee, with regard to service performed for another party. The bill has been amended to provide that the absence of a written agreement setting forth that a party is an independent contractor does not imply that an independent contract does not exist between two parties. A second amendment, added yesterday, added that the subsection recognizes, and does not alter, amend or limit the definition of employer-employee relations under federal law and regulations.

This bill has been declared in violation of USDOL guidelines, which creates the risk of FUTA tax increases on employers of \$378 per employee or \$378 million to the business community! The State Chamber/AIA is very concerned and strongly opposed to this bill.

## **LICENSING AND PUBLIC REGULATION REVIEW**

**HB 2001** by Rep. Womack is a reduced version of HB 1158. The State Chamber/AIA opposes this bill because of its use of the judicial system to address regulatory and licensing concerns.

**HB 1729** Rep. Donnie Copeland creates the Arkansas Sunset Act of 2015. It provides for a systematic review of agencies with the intent to identify state agencies that do not effectively serve a public peace, health or safety function and either restructure or eliminate them. HB 1729 is on the House State Agencies and Government Affairs Committee agenda.

**HB 1582** by Reps. Bill Gossage and Jim Dotson takes a different but overbroad approach by requiring 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. The bill is on the House Agriculture, Forestry and Economic Development Committee agenda.

## HUMAN RESOURCES ISSUES

**HB 1277** by Rep. Greg Leding would require employers, in a dispute with an employee, to pay all wages that the employer concedes are due to the employee without condition. A second amendment would allow employers to pay discharge wages on the next payday according to their existing pay schedule rather than requiring they be paid within seven days of discharge. It remains on the House Public Health, Welfare and Labor Committee agenda.

**HB 1276** by Rep. Leding would require employers of four or more employees to provide a detailed pay stub to each employee at least once per month. An amendment adds a provision that a pay stub may be provided in either paper or electronic format and provides that former employees who did not receive a pay stub with final check may request a pay stub within 30 days after termination. The bill remains on the House Public Health, Welfare and Labor Committee agenda.

**HB 1275** by Rep. Greg Leding 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 on the House Revenue and Taxation Committee agenda.

The State Chamber/AIA opposes all three of these bills

## EMPLOYMENT APPLICATIONS

**HB 1618** by Rep. Donnie Copeland would prohibit 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. Two amendments provide that this section does not preempt other required criminal background checks and allow employers to inquire into the criminal record of an applicant for employment if he or she becomes the finalist or one of the finalists for the position. It also deletes consideration of when the arrest occurred but allows the employer to consider whether the applicant's conduct underlying any arrest found in the check makes the applicant unfit for the position and whether the arrest was for a felony or a misdemeanor. We have shared the amended bill with several employment attorneys and corporate people and find there are still strong concerns about this bill. The bill is on the House Judiciary Committee agenda. The State Chamber/AIA opposes this bill.

## BEER AND ALCOHOL SALE

**HB 1959** by Rep. Jeff Wardlaw would prohibit the Alcoholic Beverage Control Division from issuing or transferring a new beer permit for off premises consumption to a business within

1,000 feet of a gas pump located on property the applicant controls or has an interest. The bill has been amended to add new sections that authorize ABC to issue permits for off- premises sale of small farm wines, beer and light wine at the ratio of 1 per 2,500 population. It also changes the permit grandfather clause date from 1991 to 2015. HB 1959 was debated in the House Rules Committee this week but did not receive the Committee's support.

**HB 1795** by Rep. Bill Gossage would prohibit the number of permits authorizing the off- premises sale of small-farm wines or beer and light wine in counties authorizing such sales from exceeding 1 permit per 2,500 population. After HB 1959 was amended it became practically identical to HB 1795. HB 1795 remains on the House Rules Committee agenda.

**HB 1965** by Rep. Donnie Copeland would vest the power to create or alter types of alcoholic beverage permits with the General Assembly rather than the Alcoholic Beverage and Control Division, requiring a 2/3 vote in each house for approval of such actions.

## **CONTINUING BILLS**

### **SCHOOL FACILITIES**

**SB 847** by Sen. Alan Clark would require the Public School Academic Facilities and Transportation Division to identify underutilized public school academic facilities and consider petitions from open enrollment charter schools for use of the facilities. The bill is on the House Education Committee agenda.

### **LEGISLATIVE SUPOENA AUTHORITY**

**HB 1643** by Rep. Richard Womack and Sen. 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. It has been referred to the Committee on House Rules.

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

This session, the House filed 1007 bills and the Senate filed 1055.

The State Chamber/AIA is tracking 535 bills and resolutions.

*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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