Three AFA initiatives now law after legislative session

The 94th Arkansas General Assembly adjourned sine die on May 1 completing 90 days in session. The Arkansas Forestry Association completed its proactive legislative agenda by successfully passing its three priority bills, supported several other pieces of legislation that became law and worked diligently on two other high profile issues to gain amendments that better position the timber and forest products community than when the bills were first filed.

In December, the AFA Executive Committee voted to pursue four potential pieces of legislation during the 2023 regular session. Three of those issues actually turned into legislation, while the fourth became a regulatory issue. They were: prescribed fire liability; a federal waiver to allow log trucks to access the interstate for a specific distance at the state legal weight limit; a State Plant Board bill that would include a position to represent the timber and forest products sector; and a carve out for forest products manufacturers to more efficiently and economically acquire a solid waste permit for wood residuals. The wood residuals issue is a regulatory issue that AFA and a select group of wood products manufacturers have begun working on with the Arkansas Department Environmental Quality. The other three have been signed into law by Governor Sarah Sanders.

Act 695 creates the Arkansas Prescribed Burning Act. The bill’s primary sponsors were Sen. Matt Stone, R, Camden, and Rep. Howard Beaty, Jr., R, Crossett. The goal of the bill is to increase the amount of prescribed fire on private timberland by creating a reasonable simple negligence standard for landowners when prudent precautions are implemented. Previously, Arkansas stood alone in the Southeast in not having statues to address liability related to prescribed burning.

Senator Stone was also the primary Senate sponsor of Act 711. Rep. Mindy McAlindon, R, Centerton, carried the bill in the House. It will require the Director of the Arkansas Department of Transportation to request that the Congress of the United States create a waiver to allow log trucks to access the Interstate Highway System at the state legal weight limit of 85,000 pounds for a distance of no more than 20 miles. It would then take Congress acting on the request and including it in Federal legislation. By passing the bill, the Arkansas Congressional delegation will see that this is an important issue and has the support of the Arkansas General Assembly. The Act is backed by studies and pilot programs that have found that allowing state-legal log trucks access to federal interstate highways improve overall safety and efficiency of timber transportation while reducing pavement damage costs and carbon emissions.

One of the first issues of the session to gain traction became Act 135, which amends the method of how board members are selected to the State Plant Board. The bill moved quickly through the legislature after input from a variety of stakeholders including AFA. The Act returns the timber and forest products sector to the 19-member panel and contains language provided by AFA as it pertains to the definition of the criteria used for selection of the representative. Our specific interest in the bill is to ensure that any candidate selected by the Governor and approved by the Senate, is a person who is actively or principally engaged, currently or previously, in the timber or forest products sector. You may remember that nine positions were removed from the Board when the Arkansas Supreme Court ruled that the selection process was unconstitutional. One of
those positions represented forestry and AFA provide recommendations of qualified candidates to serve to represent the sector’s interests. In some ways this was a landmark case for how boards and commissions will be selected going forward in Arkansas as it brought to the surface other boards and commissions’ selection process that were likely to be deemed unconstitutional.

The Supreme Court’s decision on the State Plant Board, along with the Governor’s objective to create additional state government efficiency, contributed to the filing of SB 403 by Sen. Blake Johnson, R, Jonesboro. The bill, which became Act 691 will create significant changes to certain agriculture boards and commissions. The Arkansas Forestry Commission will be one of four surviving boards and commissions under the new structure with the duties of the Board of Registration for Foresters transferring to AFC. Agriculture lobbyists and others were made aware of the bill about a week before it was filed. To my knowledge, no agriculture organizations knew of the details of the bill beforehand. Almost immediately, I brought possible concerns about the BORF to the attention of the Secretary of Agriculture and the Governor’s office, which afterward grew into multiple face-to-face meeting over the course of several weeks. Input from the registered forester community, Association of Consulting Foresters, Ouachita of American Foresters and more also started to flow into the Agriculture Department, which opened the door for a possible amendment. This outreach was effective in getting an amendment to the bill that adds an ex-officio member to the Arkansas Forestry Commission who will be a faculty member of the UAM College of Forestry, Agriculture and Natural Resources, clarifies that at least three members of the Arkansas Forestry Commission will be registered foresters – this is in addition to the ex-officio member and the State Forester, who must be a registered forester; clarifies that the AFC shall create a subcommittee and that the registered foresters who serve on the AFC will serve on the subcommittee; and allows the AFC Chairman to designate additional registered foresters to serve on the subcommittee on an ad hoc basis.

From a “big picture” perspective, during the session, legislators gave final passage to dozens of measures, including the state’s budget, a comprehensive prison reform bill, and a measure to set per-pupil spending for Arkansas students. Legislators also approved more than $186 million in tax cuts and referred one constitutional amendment to the 2024 General Election ballot. The tax cut measure, agreed to by Governor Sarah Sanders and legislative leaders, reduces the state’s corporate income tax rate from 5.3 percent to 5.1 percent and lowers the upper individual income tax rate from 4.9 percent to 4.7 percent. It will be retroactive to January 1, 2023. If you’ll remember, the first major issue of the session was education reform. The House and Senate passed identical versions of the Revenue Stabilization Act (RSA), which lays out the state budget and prioritizes the distribution of state funds. The RSA sets a $6.2 billion general revenue budget for the next fiscal year, an increase of $177.7 million. Most additional spending will go toward education and corrections programs. Legislative leaders say the increase also reflects current inflation. Another of the Governor’s priorities was criminal justice reform. The Protect Arkansas Act will overhaul the state’s parole system, requiring those convicted of the most serious crimes to serve most—if not all—of their sentences. The measure also includes provisions to help prepare incarcerated individuals to re-enter the workforce and suspends fines and fees for individuals for 120 days after they are released from prison.

Members of the General Assembly also voted to refer one proposed constitutional amendment to voters. The General Assembly can refer up to three measures to the ballot every session, but only
HJR 1006 received final approval. It would allow lottery proceeds to fund scholarships for vocational/technical schools. (Currently, lottery scholarship funding is restricted to use at two and four-year colleges.)

**Summary of additional Bills of Interest to AFA – 94th General Assembly**

HB 1336 by Rep. Bruce Cozart, R, Hot Springs will create an agricultural education pilot program in public elementary schools. AFA has spoken with the Arkansas Farm Bureau Federation about participating as a stakeholder at the appropriate time. The bill is now Act 243.

HB 1434 by Rep. DeAnn Vaught, R, Horatio will place the burden of proof on the party bringing an action against an agriculture operation as a nuisance. This is an amendment to the agriculture nuisance law passed a few sessions ago that generally protects normal agriculture operations from being declared a nuisance. It is now Act 367.

HB 1779 by Rep. Jeff Wardlaw, R, Hermitage will amend the wood energy production and forest maintenance income tax credit and allow an income tax credit for wood energy products and forest maintenance expansion projects. The bill makes some adjustments to Act 594 of 2021, which was created with input from both the Arkansas Economic Development Commission and the Arkansas Department of Finance & Administration as an incentive to attract new wood using industries to Arkansas that can meet specific criteria and to allow them to take advantage of the state’s recycling credits. It is now Act 845.

SB 246 by Sen. Matt Stone, R, Camden, will revise the law regarding timber sales; revise the law regarding co-owners or coheirs, define “unknown or unlocatable co-owners or coheirs and amend requirements related to timber sale contracts. All unknown or unlocatable owners would still be paid for their timber under the law. It is now Act 253.

SB 383 by Sen. Blake Johnson, R, Jonesboro, will create the Office of Agricultural Intelligence within the Arkansas Department of Agriculture and prohibit ownership of agricultural land in Arkansas by a foreign party subject to International Traffic in Arms Regulations. It passed the House last week by a vote of 90-1 and was returned to the Senate to concur in an amendment where it ultimately passed by a vote of 33-0. It is now Act 636.

SB 407 by Sen. Matt McKee, R, Hot Springs, will require energy produced from forest biomass to be considered carbon neutral and in conjunction with carbon capture technologies be considered carbon negative. This is a significant accomplishment at the state level as carbon neutrality of biomass language has also long been sought at the federal level and the concept is integral to working forests as part of the climate solution. It is now Act 693.

SB 410 by Sen. Missy Irvin, R, Mountain Home – will facilitate the administration of boiler inspections with as little disruption as possible to avoid business interruptions and employee downtime. This is bill that will help forest products industry manufacturers ensure regular, safe and efficient operation of its boilers. It is now Act 694.
SB 567 by Sen. Gary Stubblefield, R, Branch amends the law concerning civil liability for damage caused by motor vehicles operated on certain public bridges. At the request of Sen. Matt Stone, R, Camden, the bill exempts wooden bridges that are 20-feet long or less. Despite concerns, the bill had the votes to pass 32-0 in the Senate and 91-2 in the House and is now Act 887.