

REPORT
of the
LITIGATION REPORTS OVERSIGHT SUBCOMMITTEE
of the
ARKANSAS LEGISLATIVE COUNCIL

June 19, 2009

Mr. Chairman:

The Litigation Reports Oversight Subcommittee met on Thursday, June 18, 2009 at 10:00 A.M. in Room 149 at the State Capitol. The subcommittee heard two proposed settlement agreements.

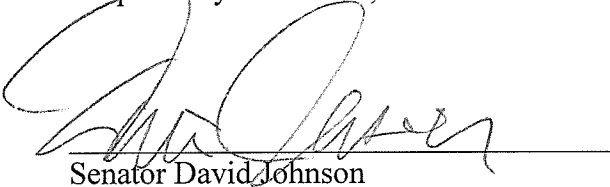
The first settlement agreement dealt with Baxter Healthcare Corporation v. Weiss. Martha Hunt, Chief Counsel, Office of Revenue, Department of Finance & Administration addressed the subcommittee and explained that the Department will refund Baxter Healthcare Corporation the tax paid on pallets, black tubes and film cases purchased between January 1997 and December 2001, plus interest that accrued on these purchases through the date of the filing of the complaint. The total refund of tax paid on purchases will be \$240,591.43. Of this figure, \$165,444.17 will be refunded to the taxpayer in the form of a cash refund and \$75,147.26 will be held for use by Plaintiff as an available credit under the Manufacturer's Investment Sales and Use Tax Credit Act of 1985. In return, the Plaintiff will take all necessary actions to obtain dismissal of the action with prejudice. Dismissal of the action will result in Plaintiff's abandonment of any claim of entitlement to a refund of local tax alleged to have been paid above the local tax cap, plus any interest that would be due for the periods January 1997 through December 2001. The subcommittee voted favorably to review the settlement.

The second proposed settlement agreement dealt with Albemarle Corporation v. Weiss. Martha Hunt, Chief Counsel, Office of Revenue, Department of Finance & Administration addressed the subcommittee and explained that the Albemarle Corporation has provided information sufficient to verify entitlement to exemption on its purchases of chlorine and hydrochloric acid used in its manufacturing operation for the periods April 1, 1997 through June 30, 1997, and July 1, 1997 through July 31, 1999. Under the terms of the agreement, the Department will refund to Albemarle Corporation the amount of \$479,500 in state tax, \$12,000 in local tax, plus applicable interest that is due on the state and local tax, from the date the taxes were paid as reflected in the refund request (May 24, 2000). The above amounts will be paid in the form of a cash refund. In

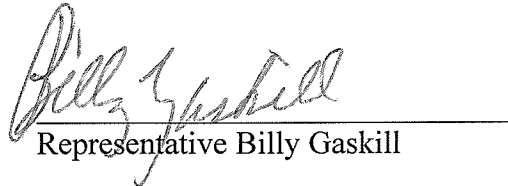
return for this settlement payment, Albemarle will take all necessary actions to obtain dismissed its lawsuit with prejudice. By dismissing this lawsuit, Albemarle relinquishes its refund claims to the other four chemicals referenced in its complaint and entitlement to any credits as to the claimed refunds under the Manufacturer's Investment Sale & Use Tax Credit Act of 1985. Albemarle also relinquishes its claims to any costs and fees incurred in relation to the lawsuit. The subcommittee voted to favorably review the settlement.

The subcommittee also reviewed cases of new litigation reported since the last meeting from Arkansas Public Service Commission, Arkansas Department of Health, Department of Finance & Administration, Office of Revenue, and the Office of the Attorney General. The Attorney General's Office had 40 cases of new litigation, 27 cases that were closed, and four monitored cases.

Respectfully Submitted,



Senator David Johnson



Representative Billy Gaskill