



Legislative Newsletter



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*An up-to-date review of Colorado government and politics especially for the Aurora Chamber of Commerce.
Compiled and edited by Axiom Strategies, Inc.*

"I used to say that politics was the second oldest profession. I have come to know that it bears a gross similarity to the first"

-Ronald Reagan

End of Session Report 2018

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Highlights

The gavel went down on the Senate shortly before midnight and a few minutes later in the House, signaling the end to one of the most controversial sessions in history. Much of the early part of the session was spent focusing on sexual harassment allegations and discussions of whether a toxic work environment exists at the Capitol. Six male legislators were formally accused of harassment or misbehavior. Rep. Steve Lebsack of Thornton was expelled, marking the first time in a century that a sitting legislator was kicked out of office. Sen. Randy Baumgardner became known as "the Senator from Northwestern Colorado," and after he survived an expulsion hearing, responding to pressure leadership removed him from all committee assignments.

This conversation overshadowed major policy discussions such as reform of the Public Employees Retirement System (PERA), the annual transportation funding battle, debate over continuing the Colorado Civil Rights Commission, and the reemergence of the liquor wars.

Pushed to the last couple of weeks, lobbyists and legislators scrambled to finalize these last few major bills. With only 40 minutes to spare, 22 House Republicans joined by 12 democrats voted to repass SB 18-200, with a conference committee report sending the bill back across the hallway where 24 Senators, led by Republican sponsors Senator Jack Tate and Kevin Priola, secured the votes to ensure the PERA reform measure passed. When the Colorado Education Association launched a last minute effort to kill the bill, Governor John Hickenlooper began lobbying democratic lawmakers to pass it.

Other highlights included Transportation funding receiving a boost when the first bill of the session, SB 18-001 finally passed producing \$645 million for roads, bridges and alternative transportation over the next two years, and allowing for bonding of \$2.33 billion. Transparency in health care costs and drug pricing dominated all of the health care

discussions. In the final hours, legislation reauthorizing the Civil Rights Commission passed. Early on in the session the Joint Budget Committee (JBC) deadlocked over whether or not to fund the agency. After public protests on the capitol grounds and two conference committees, an agreement was eventually reached and was the last bill of the session to pass.

The Liquor Wars broke out again when SB 18-243 was rewritten in the House Opponents became supporters and the original supporters were left wondering what happened and struggling to find a win in the legislation. The bill was intended to put additional restrictions on grocery and convenience stores that will begin selling full strength beer on January 1, 2019. The final version will allow 18 to 21-year-olds to sell beer in those stores, as well as liquor stores; require grocery and convenience stores to use their own employees to deliver beer to customers; and sets a 500-foot distance between stores that sell beer and the same distance between stores that sell beer and schools. Restrictions on below cost sales and limiting liability in "liquor tastings" were included in the bill as well as resolution to the two-year battle to fix "the Wal-Mart issue." This issue arose after the 2016 bill passed and it was determined that Wal-Mart, a major supporter of that effort, did not have the correct license to take advantage of the bill. The House and Senate both approved the compromise shortly before the midnight deadline.

The marijuana industry claimed victory when legislation allowing, "tasting rooms" in existing stores, where customers can try a one-serving sample, was approved. The fight for a public use consumption clubs similar to bars took another step forward. Controversial legislation authorizing school nurses to administer medical marijuana also passed.

Priority Bills

HB18-1001 – (Winter, Gray/Fields, Donovan) FAMLI Family Medical Leave Insurance Program

This bill would have created a paid family leave program as an enterprise and a Type 2 Transfer under the Colorado Department of Labor and Employment. Colorado employees would pay a monthly premium on their wages collected by employers through a payroll deduction. This premium funded a family medical leave benefit that may have been taken concurrently with federal family leave. Eligible employees may then collect a benefit for up to 12 weeks to care for a family member or designated person. The bill would have increased state revenue and expenditures beginning in FY 2018-19, as well as workload for local governments, school districts, and statutory public entities.

The Chamber voted to oppose this bill. Most of the business community opposed as well with concerns over the fiscal note.

Position: Oppose

Outcome: Postponed Indefinitely

HB18-1033 (Weissman/Coram) Employee Leave to Participate in Elections

This bill would have allowed voters to take two hours of leave from work to vote, register to vote, obtain a ballot or replacement ballot, or obtain an identification document required for voter registration. For general, primary, and coordinated elections, voters may take this leave on any day that polling locations are open. For all other elections, including municipal elections, voters may take this leave on any day within eight days prior to the election, or on Election Day.

The Chamber supported this bill. It would have not expanded the amount of time employees would have to take time-off work to vote but rather only expanded the eligible days that employees could take the time-off.

Position: Support

Outcome: Postponed Indefinitely

HB18-1067 (Melton, Salazar) Right to Rest Act

For at least the third year in a row, Reps. Jovan Melton and Joe Salazar introduced a “Right to Rest” bill, and it met the same fate it has every other year. This year’s version prohibited a state or local government in Colorado (government entity) from enacting or enforcing laws, ordinances, rules, or regulations that limit, prohibit, or penalize certain actions, including the right of persons to:

- use and move freely in public spaces;
- rest or sleep in public spaces and protect oneself from the elements in a manner that does not obstruct the use of or access to private property;
- eat, share, accept, or give food in any public space where food is not prohibited;
- occupy a legally parked motor vehicle; and
- expect a reasonable amount of privacy over personal property.

If a government entity could demonstrate that it offered housing to a person experiencing homelessness and that person refused to accept this offer, it was exempt from the bill's enforcement prohibition. Under the bill, public space included property owned or leased by a state or local government or any property with an easement for public use. Enclosed buildings and structures were also included when open to the public. As in years past, much of the real estate industry and business community opposed this bill. It received fewer committee votes this year than ever before, and did not pass even its first committee of reference.

Position: Monitor

Outcome: Postponed Indefinitely

HB18-1178 (Williams/Lundberg, Marble) Hold Colorado Governments Accountable Sanctuary Jurisdictions

Conditional upon voter approval, this bill created civil and criminal penalties for creating sanctuary jurisdictions. A sanctuary jurisdiction was defined as one that adopts a law, ordinance, or policy that prohibits or in any way restricts an official or employee from cooperating and complying with federal immigration law or from sending, receiving, or using information regarding the immigration status of an individual. A sanctuary jurisdiction could be the state, a city, a county, a school district, a special district, an institution of higher education, or any other political subdivision of the state.

This bill has been introduced the past two years in the Colorado legislature. It deals with the highly controversial issue of ‘sanctuary cities’ across the nation. It was killed for the second consecutive year in its first committee.

Position: Oppose

Outcome: Postponed Indefinitely

HB18-1217 (Garnett, Van Winkle/Gardner) Income Tax Credit For Employer 529 Contributions

This bill creates a new state income tax credit for employers who contribute to an employee's 529 qualified state tuition program administered by CollegeInvest. The amount of the credit is equal to 20 percent of the contribution, up to \$500, for each employee per year. The credit is available for tax years 2019 through 2021. The credit is neither transferable nor refundable, but may be carried forward on the employer's return for up to three years. The bill defines an employer as any person doing business in the state, and an employee as any person in the employment of an employer, whether full-time, part-time, temporary, or permanent. The Department of Revenue may seek, accept, and expend gifts, grants, or donations for the purposes of covering the administrative costs of the program. This income tax credit is repealed on December 31, 2024.

Position: Monitor

Outcome: Sent to the Governor

HB18-1256 (Duran, Herod/Gardner) Sunset Continue Civil Rights Division and Commission

This bill continues the state's Civil Rights Division and Civil Rights Commission in the Department of Regulatory Agencies, which are scheduled to repeal on July 1, 2018.

Background

The Colorado Civil Rights Division in DORA enforces Colorado's anti-discrimination laws in the areas of employment, housing, and public accommodations, and provides training to groups and individuals throughout Colorado. The division receives funding through the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development/Office of Fair Housing and Equal Opportunity. It formal cooperative agreements with these federal agencies avoid duplication of efforts on cases where joint jurisdiction exists. The Colorado Civil Rights Commission is a seven-member board that develops policy and conducts hearings regarding illegal discriminatory practices. Board members may receive per diem and reimbursement costs for their work on the board, which typically costs less than \$5,000 per year.

A compromise on continuing the Colorado Civil Rights Division and Commission was reached in the waning hours of the 120-day legislative session. The main issue came down to who should serve on the seven-member panel and who should make appointments. Lawmakers agreed that the makeup would be more business friendly with two members being majority owners of small- and medium-sized businesses and another would represent a chamber of commerce. The panel will also include three union representatives and an at-large member.

Position: Monitor

Outcome: Sent to the Governor

Effective Date: Upon Signature

HB18-1271 (Willett, Gray/Tate) Public Utilities Commission Electric Utilities Economic Development Rates

This bill allows the Colorado Public Utilities Commission (PUC) to approve investor-owned electric utilities in charging lower rates, for up to 10 years, for commercial and industrial users who locate or expand their operations in Colorado. It may result in a minimal workload increase through January 1, 2028, when the bill repeals.

Position: Support

Outcome: Sent to the Governor

SB18-001 (Cooke, Baumgardner/Carver, Buck) Transportation Infrastructure Funding

SB 18-001 is the long awaited, highly negotiated transportation funding bill. This bill underwent many iterations before ultimately passing both the House and Senate. For 21 years, SB 18-001 creates annual transfers from the General Fund (GF) to the State Highway Fund for transportation purposes. If an initiated ballot measure authorizing state debt for transportation is not approved in 2018, this bill refers a ballot measure to do so at the 2019 election. Conditional on approval of the 2019 measure, the bill requires the issuance of Transportation Revenue Anticipation Notes (TRANS) worth up to \$3.5 billion. For FY18-19 the one-time GF transfer of \$495M, splits as follows:

- \$346.5M to state highway fund (SHF)
- \$74.25M to highway users tax fund (HUTF) for allocation to local governments
- \$74.25M to the multimodal transportation options fund

FY19-20 one-time GF transfer of \$150M, split up as follows:

- \$105M to SHF
- \$22.5M to HUTF
- \$22.5M to multimodal

Other details:

- 2020-2039, annual GF transfers to HUTF of \$122.6M for payment on newly issued TRANs bonds
- Issues \$2.337B worth of new TRANs bonds (max repayment of \$3.250B over 20 years)
- Net proceeds from TRANs bonds allocated as follows:
- 85% to SHF for CDOTs Tier 1 project list
- 15% to the multimodal transportation options fund
- Creates a reserve account in the SHF funded as follows:
- \$75,952,500 from GF in 2020
- \$75,952,500 from GF in 2021
- This reserve is intended to be used to cover TRANs bond payments in the event of a GF shortfall to prevent education funding reductions
- Creates the multimodal transportation options fund for local governments --> requires the local governments to match the funds they get from the fund, except under special circumstances (i.e. small and/or rural areas)
- Money from the Multimodal Fund is expended as follows:
- 85% for local projects
- 15% for state projects

Should a ballot measure to increase sales tax for transportation along with bond approval pass in 2018 the bond limits could be increased allowing for additional projects off CDOT Tier1 and II priority lists to be completed.

Position: Monitor

Outcome: Passed House & Senate, Awaiting Governor's Signature

Effective Date: Upon Signature

SB18-088 (Gardner/Becker) Taxation of Retail Marijuana Sales

This bill provides that special districts levying sales taxes on retail marijuana transactions prior to July 1, 2017, retain their authority to levy sales taxes on retail marijuana, irrespective of the state sales tax exemption adopted in Senate Bill 17-267. Local districts must determine if voter approval is required before resuming the local district sales tax on retail marijuana. Special district sales taxes on retail marijuana that ceased on July 1, 2017, will be collected once this bill becomes law.

Position: Support

Outcome: Governor Signed

Effective Date: February 22, 2018

SB18-157 (Williams/Danielson) Colorado Women's Veterans Act

This bill created the State Women Veterans Office (SWVO) in the Governor's Office and required that the governor appoint a women veterans service officer to administer the office. The service officer was required to attend annual meetings of other women veterans agencies and maintain membership in all veteran organizations for which he or she is eligible. The bill also created the State Women Veterans Steering Committee (the steering committee) to identify issues and recommend actions to the SWVO concerning the location of the office and criteria for hiring the office administrator.

The bill specified the duties of the SWVO, including:

- provide services to ensure the health and well-being of women veterans who reside in Colorado;
- develop a state women veterans association;
- develop outreach programs to help Colorado women veterans acquire state and federal benefits and services;
- conduct surveys to gather data concerning demographics, employment, family situations, housing needs, and women veterans' use or lack of use of education, employment, and disability benefits;

- develop performance standards and measurement procedures to substantiate the viability of SWVO positions, including administrative support;
- develop a clearinghouse of information and resources relevant to women veterans;
- establish a women veterans website, blog, and chat room for women veterans within the website of the governor's office;
- conduct outreach activities to increase public recognition of the contribution of women veterans and facilitate networking between women veterans, veterans service organizations, the General Assembly, and regional offices of the Federal Department of Veterans Affairs (VA);
- serve as a liaison to the Office of Economic Development and International Trade, small business development centers, procurement technical assistance centers, minority business offices, and other state agencies to foster women veteran-owned businesses; and
- facilitate cooperative networking between local, state, and federal agencies in all matters of interest to women veterans.

The SWVO was also required to make an annual report to the General Assembly concerning the office's programs and activities during the preceding year. The SWVO may expend money from the Veterans Assistance Grant Program Cash Fund.

Position: Monitor

Outcome: Postponed Indefinitely

SCR18-004 (Grantham, Fenberg/Duran, Neville) Congressional Redistricting

This resolution establishes the Independent Congressional Redistricting Commission and requires the commission to create a congressional redistricting plan, thus removing this responsibility from the General Assembly, if approved by voters.

Each state is granted representatives in the U.S. Congress based on the state's share of the total U.S. population. Every ten years following the U.S. census, the state's congressional districts must be redrawn so that each district has equal population. Currently in Colorado, the General Assembly is responsible for dividing the state into seven congressional districts. This resolution refers a measure to the voters to amend the Colorado constitution to establish the Independent Congressional Redistricting Commission and requires the commission to create a congressional redistricting plan, thus removing this responsibility from the General Assembly.

Commissioner selection. The commission consists of 12 members: 4 members from the state's largest party; 4 members from the state's second largest party; and 4 members who are unaffiliated with a political party.

Application process. To qualify as a commissioner, applicants must be registered to vote and have voted in the previous two elections; must have been either unaffiliated with any party or affiliated with the same party for the last 5 consecutive years; and must meet certain criteria related to political participation, holding political office, or lobbying as outlined in the resolution. By August 10 in the year the census is conducted, after holding one or more public hearings, nonpartisan staff of the Colorado Legislative Council must prepare an application to allow the appointing authorities for the commission to evaluate applicant's experience. By November 10 of the year prior to redistricting, all persons interested in serving on the commission must submit an application to the nonpartisan staff.

Commissioner selection. By January 5 of the redistricting year, the Chief Justice of the Colorado Supreme Court must designate a three-member panel to review the submitted applications. This panel consists of the most recent retired justices or judges, and each appointee must have a different political affiliation. All decisions made by this panel must be unanimous. Compensation of panel members is to be set by the General Assembly.

Nonpartisan staff, with the assistance of the Secretary of State, must determine if each applicant is qualified and make such findings public by January 11. By January 18, the panel must hold a public meeting and randomly select up to 300 applicants for the first largest party, 300 applicants for the second largest party, and 450 unaffiliated applicants. From

these applicants, the panel must choose 150 applicants, or 50 from each group, and randomly select 6 commissioners from these applicants. No more than two applicants can be from the same congressional district. By February 16, the Senate Majority and Minority Leader and House of Representatives Majority and Minority leader must select a pool of 10 applicants. By March 1, the panel must select 4 applicants from the pool of 10 and 2 unaffiliated applicants.

State plan review and approval. The Governor must convene the commission no later than March 15 of the redistricting year. Staff for the commission are appointed from the offices of the Legislative Council Staff and Legislative Legal Services. The commission must adopt rules governing the hearing process and review of submitted maps, maintenance of commission records, process for removing commissioners and for recommending changes to submitted maps, and must adopt a statewide meeting and hearing schedule.

Public involvement. All Colorado residents may present proposed redistricting maps and written comments for the commission's consideration. The commission must hold at least three public hearings in each congressional district before the approval of a redistricting map. At least 10 commissioners must attend each meeting either in person or electronically. These hearings must be broadcast online. The commission must maintain a website through which Colorado residents may submit maps or written comments. All written comments pertaining to redistricting must be published on its website.

Lobbying requirements. Any person who receives compensation for advocating to the commission, one or more commissioners, or staff, are lobbyists and must disclose certain information to the Secretary of State within 72-hours of lobbying or receiving compensation for lobbying. The Secretary of State must publish the names and compensation of such lobbyists within 24-hours of receiving this information. Complaints against a lobbyist for failure to fully or accurately report such activity may be filed with the Department of State and referred to an Administrative Law Judge (ALJ). The decision of an ALJ may be appealed to the Court of Appeals.

Approval of plans. Within 30 to 45 days after the commission convenes, commission staff must create a preliminary plan. Any member of the public may submit written comments regarding the creation of the preliminary plan. The commissions must complete public hearings on the preliminary plan by July 7. Prior to the hearings being held, commission staff must create at least three staff plans to be presented to the commission. The commission may adopt a final plan at any time after the presentation of the first staff plan.

The commission must adopt a final plan and submit it to the Colorado Supreme Court for review by September 1. If the commission does not adopt a final plan by September 1, the commission staff must submit the unamended third staff plan. The Supreme Court must review the final plan and approve it by November 1 or return it to the commission. If returned, the commission has 12 days to hold a hearing and submit a revised plan to the Supreme Court. If the commission fails to submit a revised plan, nonpartisan staff has three days to submit a revised plan. The Supreme Court must approve a congressional redistricting plan by December 15 to be filed with the Secretary of State.

Position: Monitor

Outcome: Passed Senate & House

Effective Date: Referred Ballot Measure

SCR18-005 (Grantham, Fenberg/Duran, Neville) Legislative Redistricting

Under current law, the Colorado Reapportionment Commission must create and approve a legislative district plan for the Colorado House of Representatives and Colorado State Senate. This resolution refers a measure to the voters to amend the Colorado Constitution to replace the current Reapportionment Commission with the Independent Legislative Redistricting Commission (commission).

Commission composition. The commission consists of 12 members: 4 members from the state's largest party; 4 members from the state's second largest party; and 4 members who are unaffiliated with a political party.

Application process. To qualify as a commissioner, applicants must be registered to vote and have voted in the previous two elections; must have been either unaffiliated with any party or affiliated with the same party for the last 5 consecutive years; and must meet certain other eligibility criteria outlined in the resolution. By August 10 in the year the census is conducted, after holding one or more public hearings, nonpartisan staff of the Colorado Legislative Council must prepare an application to allow the appointing authorities for the commission to evaluate each applicant's experience. By November 10 of the year prior to redistricting, all applicants must submit applications to the non-partisan staff.

Commissioner selection. By January 5 of the redistricting year, the Chief Justice of the Colorado Supreme Court must designate a three-member panel to review the submitted applications. This panel consists of the most recent retired justices or judges, and each appointee must have a different political affiliation. All decisions made by this panel must be unanimous.

Nonpartisan staff, with the assistance of the Secretary of State, must determine if each applicant is qualified and make such findings public by January 11. By January 25, the panel must hold a public meeting and randomly select up to 300 applicants for the first largest party, 300 applicants for the second largest party, and 450 unaffiliated applicants. From these applicants, the panel must choose 150 applicants, or 50 from each group, and randomly select 6 commissioners from these applicants. No more than two applicants can be from the same congressional district.

By February 16, the Senate Majority and Minority Leader and House of Representatives Majority and Minority leader must each select a pool of 10 applicants, and the panel of judges and justices must select 4 applicants from the pool chosen by legislative leadership, as well as 2 additional unaffiliated applicants.

State plan review and approval. The Governor must convene the commission no later than March 30 of the redistricting year. Staff for the commission are appointed from the offices of the Colorado Legislative Council and Legislative Legal Services. The commission must adopt rules governing the hearing process and review of submitted maps, maintenance of commission records, process for removing commissioners and for recommending changes to submitted maps, and must adopt a statewide meeting and hearing schedule.

Public involvement. All Colorado residents may present proposed redistricting maps and written comments for the commission's consideration. The commission must hold at least three public hearings in each congressional district before the approval of a redistricting map. At least 10 commissioners must attend each meeting either in person or electronically. These hearings must be broadcast online. The commission must maintain a website through which Colorado residents may submit maps or written comments. All written comments pertaining to redistricting must be published on its website.

Lobbying requirements. Any person who receives compensation for advocating to the commission, one or more commissioners, or staff, are lobbyists and must disclose certain information to the Secretary of State within 72-hours of lobbying or receiving compensation for lobbying. The Secretary of State must publish the names and compensation of such lobbyists within 24-hours of receiving this information. Complaints against a lobbyist for failure to fully or accurately report such activity may be filed with the Department of State and referred to an Administrative Law Judge (ALJ). The decision of an ALJ may be appealed to the Court of Appeals.

Approval of plans. Within 30 to 45 days after the commission convenes, commission staff must create a preliminary plan for the Senate and the House of Representatives. Any member of the public may submit written comments regarding the creation of the preliminary plans. The commission must complete public hearings on the preliminary plans by July 21 of the redistricting year. After the hearings are held, commission staff must create at least three Senate plans and three House of Representatives plans. The commission may adopt a final Senate or House of Representatives plan at any time after the presentation of the first staff plans.

The final Senate and House of Representatives plans must be submitted to the Colorado Supreme Court for review by September 15 of the redistricting year. If the commission does not adopt a final plan for both the Senate and the House by September 15, the commission staff must submit the unamended third staff plan. By November 15 of the

redistricting year, the Colorado Supreme Court must approve or return the Senate and House plans. If the court returns a plan to the commission, the commission will have 12 days to hold a hearing and return a new plan. If the commission fails to adopt a plan, the commission's staff will have an additional three days to prepare a plan. The Supreme Court must approve plans and file them with the Secretary of State no later than December 29 of the redistricting year.

Position: Monitor

Outcome: Passed Senate & House

Effective Date: Referred Ballot Measure