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CACI Board's Legislative Priorities

Overview

During the 2009 session, under the policy guidance of the CACI Board of Directors, the CACI lobbying team actively lobbies a number of bills, supporting those deemed beneficial to the state's business climate and opposing those viewed as harmful. If a bill is marked with **KEY VOTE**, that means the CACI lobbying team has deemed this bill especially important to CACI and thus will take note of each legislator's critical vote(s) on the bill.

Moreover, the CACI lobbying team works a number of bills that are not directly tied to the CACI's Board's primary focus on bills that directly affect the broad business climate but that are, nonetheless, important to certain parts of the business community for various reasons. It's also important to point out that the CACI lobbying team monitors many more bills that are not on *The CACI Board's Legislative Agenda* as they are introduced and progress through the legislature to insure that they do not harm the state's business climate.

In addition, please consult past issues of *The CACI Capitol Report*, which are posted weekly on the CACI Web site, for additional details about a particular bill and its progress in the legislature. If you wish to review a particular bill's legislative movement, you can do so by going to the legislature's Web site: www.leg.state.co.us

HB-1001 Creates a business income tax credit to incentivize job growth (Rep. Rice/Senator Heath)

This bill is intended to provide an incentive for businesses to create jobs. To participate in the program, a business would have to meet certain criteria and apply to the Colorado Economic Development Commission. The firm would be eligible for a corporate income-tax credit of up to half of its annual FICA taxes on new workers. The tax credit would be calculated on a year-to-year basis for five years according to the number of FTEs on the payroll of the business at the end of the year. In order for the tax credit to be granted, a company has to prove that if it wasn't for this program that the company would not move or expand its operations in Colorado.

Position: **SUPPORT**

Status: The Senate Business, Labor and Technology Committee today unanimously approved HB-1001 with a technical amendment and sent it to the Senate Appropriations Committee. The House passed the bill on Third (and final) Reading March 25th, having amended and passed it on Second Reading on March 24th.

HB-1057 Requires companies to provide up to 18 hours of unpaid leave per academic year for workers to attend their child's academic activities at school (Rep. A Kerr/Senator Bacon)

As amended by the House Education Committee, HB-1057 would require companies that employ 50 or more workers provide up to 18 hours of unpaid leave in an academic year in three-hour blocks to workers who want to attend parent-teacher conferences or other academic activities related to the educational achievement of the employee's child. The worker could take no more than six hours in one month. The worker also could elect to take paid sick or vacation leave instead of the unpaid leave. The leave could be used for parent-teacher conferences and for meetings for a special-education student, to prevent a student from dropping out, or for disciplinary matters. Workers would have to notify the employer a week in advance or as soon as possible in the case of an emergency.

Position: **OPPOSE**

Status: The House passed by a 35-to-30 vote HB-1057 on Third Reading on February 9th. Three Democrats (Curry, Rice and Schafer) voted joined the Republican minority to vote against the bill, The House Education Committee passed the amended bill on February 5th. The bill is scheduled for its first hearing in the Senate on Thursday, March 12th when the Senate Education Committee meets at 1:30 p.m. in Senate Committee Room 354.

HB-1170 Provides Unemployment Insurance (UI) benefits for workers when "locked out" by employers during a labor dispute with a union (Rep. Casso/Senator Tochtrop)

This bill would allow workers to receive UI benefits when the employer initiates the "lockout" of the workers. The bill defines "lockout" as "a refusal by an employer engaged in a dispute with a union to permits its employees to perform services on behalf of the employer." The bill also covers "multi-employer bargaining units," which is defined as "any group of two or more employers bargaining with a union as a single unit with the consent of each employer and the union." The bill defines an employer-initiated lockout to "constitute a labor dispute" and thus the unemployed workers are eligible for UI benefits. The exception to this change is that workers may be ineligible for UI benefits if "the lockout results from the demands of employees as distinguished from an effort on the part of the employer to deprive the employees of some advantage that they already possess."

Position: **OPPOSE**

Status: On Wednesday, March 4th, the House Business Affairs and Labor Committee held a long hearing on the bill. Sybil Kiskan, an attorney with Davis Graham and Stubbs LLP, testified against the bill on behalf of CACI. The Committee Chair, Representative Joe Rice (D-Littleton), laid the bill over until Tuesday, March 10th for more debate. Yesterday, following the debate, Representative Rice laid the bill over again until today, when the Committee amended the bill and approved it on a party-line 6-5 vote. The amendments include the following: (1) allowing UI benefits to union workers when the employer initiates the lock-out; (2) denying UI benefits when the union initiates the lock-out; and (3) delaying the implementation date until July 2010. The last provision ostensibly is intended to allow current law to govern the contract negotiations in May between King Soopers and Safeway and the United Food and Commercial Workers Union Local Seven when the current contract expires. The bill now goes to the House Floor for Second Reading.

SB-37 Concerns ending the surcharge that employers pay to replenish two workers' compensation funds, the subsequent injury fund and the major medical insurance fund (Senator Kopp/Rep. McNulty)

As introduced, this bill would end the tax surcharge that employers have paid on their workers' compensation insurance premiums to replenish two workers' compensation funds-- the Subsequent Injury Fund and the Major Medical Insurance Fund—that were raided by the legislature in 2002 to balance the state budget following the 2001 recession. These funds insure employers against liability for personal injury or death to their workers. Governor Ritter recently proposed taking \$96 million from these two funds to help balance the state's budget. The Senate Veterans and Military Affairs Committee, however, unanimously adopted a "strike below" amendment on February 9th to terminate a requirement that the two funds be actuarially sound and instead operate on a "cash in, cash out," basis so that the funds can pay next year's payments to injured workers. This would reduce the amount of the tax surcharge that businesses pay to the two funds.

Position: **SUPPORT**

Status: On February 9th, the Senate Veterans and Military Affairs Committee passed the amended bill as described above and sent it to the Senate Appropriations Committee, where it awaits action. Loren Furman, CACI Vice President of Governmental Affairs, spoke in support of the original version of the bill.

SB-110 Bill to allow expanded employment lawsuits (Senator Morse/Rep. Levy)

This is the Colorado Civil Rights Division "sunset" bill, which was originally a non-controversial bill to reauthorize until 2018 the Colorado Civil Rights Commission and the Colorado Civil Rights Division. Plaintiffs' attorneys requested, however, that a new provision be included in SB-110 that adds expanded remedies to employment discrimination claims. Under current law, a plaintiff who wins an employment discrimination claim can recover actual economic damages. The new provision allows employment lawsuits to be diverted from the Federal courts, where they are currently considered as Federal EEOC cases, to state district courts with dockets that are already overloaded.

Position: **OPPOSE**

Status: The Senate Judiciary Committee on February 23rd amended the bill and passed it on a four-to-three vote. The Committee adopted a two-part amendment that (1) allows remedies to go before the Civil Rights Commission for a formal hearing if there is probable cause for a civil rights discrimination case by a plaintiff and (2) the representation of the plaintiff by the Colorado Attorney General's Office was removed. The remedy language only applies to businesses with 15 workers or less. The amendment removed the almost \$1 million cost that would have been incurred if the Attorney General's Office had been required to represent plaintiffs. In addition, the amendment strips out the federal remedies language that was advocated by the plaintiffs' attorneys. The bill awaits action in the Senate Appropriations Committee.

SB-208 Bill to "transfer" special purpose cash funds to state general fund (Senator Tapia/Rep. Pommer) KEY VOTE

As introduced, the bill would transfer \$15.7 million from the Workers' Compensation Cash Fund, \$26.5 million from the Subsequent Injury Fund, and \$69.5 million from the Major Medical Insurance Fund to the state general fund effective March 30, 2009. The bill also would transfer cash from 36 other state cash funds to the state general fund.

Position: **OPPOSE**

Status: On February 17th, the Senate Appropriations Committee passed an amended bill. The Senate amended and passed the bill on Second Reading (Special Orders) on February 18th and on Third Reading on February 19th. The House Appropriations Committee amended and passed the bill on February 20th. CACI regards the recorded vote on an amendment by Representative Kevin Lundberg (R-Berthoud) to be a **KEY VOTE** because the amendment stipulated that the legislature repay the funds when the state's economy improves and state tax revenues increase. The amendment failed, however, which indicates that the legislature has no intention of repaying the funds. The House amended the bill on Second Reading on February 23rd and passed it on Third Reading the next day. On February 25th, the Senate voted not to concur with the House amendments and asked for a Conference Committee. The Conference Committee met on March 2nd and the "result was to Committee recessed."

BILLS KILLED

HB-1106 Codifying pending local government ordinances concerning land use (Senator Hullinghorst)

This bill would have applied the force of law for a proposed local government ordinance to pending land-use applications before the proposed ordinance had actually been enacted by elected local government officials. The bill's title said it concerned "codification of the pending ordinance doctrine in connection with land use approvals by local governments."

Position: **OPPOSE**

Status: On February 5th, the House Local Government Committee voted overwhelmingly 9-1 to kill HB-1106.

HB-1117 Concerns the "authority to capture unearned compensation" provided to "persons in a publicly traded business entity's governance" (Rep. Frangas)

Called the "Colorado Shareholder Protection Act," this bill targets executives of failing companies by prohibiting "unearned compensation" and allows shareholders, creditors, the Colorado Attorney General and others to try to recover the compensation. In effect, the bill seeks to eliminate so-called "Golden Parachutes" and other executive benefits when a company is going under. The bill is aimed at companies that will be ". . . undercapitalized after unearned compensation is granted, or is reasonable expected to become undercapitalized as liabilities and debts mature . . ." This bill would likely encourage lawsuits against corporations by executives, called "principals," because it would modify their employment contracts or agreements. HB-1117 doesn't specify the types of damages that can be obtained. HB-1117 requires an executive to work at least 20 hours per week. The bill is aimed at the top five executives in a company, provided they earn at least \$1 million in annual compensation. The bill defines "principals," "undercapitalized," and "unearned compensation."

Position: **OPPOSE**

Status: The House Business Affairs and Labor Committee on Wednesday February 4th, took testimony on HB-1117, and Larry Marquess, a Shareholder with Littler Mendelson PC, who recently spoke against the bill before the Committee on behalf of CACI. On February 17th, the Committee killed HB-1117 on a bipartisan vote. Five Republicans on the Committee were joined by three Democrats to kill the bill: Representative Su Ryden (D-Aurora), Representative Christine Scanlan (D-Dillon) and Representative John Soper (D-Thornton).

HB-1208 Bill would force companies to pay “prevailing wages” on state public works projects (Rep. Soper)

This bill would force companies working on state public works projects, such as building and repairing roads and bridges, to pay “prevailing wages” set by the U.S. Labor Department to their non-unionized workers. In effect, HB-1208 would force companies—and their subcontractors--to pay union wages to their workers. Such a bill would add millions to the price tag for such projects or force a cutback in the scope of the projects, or both.

Position: **OPPOSE**

Status: The House Business Affairs and Labor Committee killed HB-1208 on February 17th, when the Committee Chair, Representative Joe Rice (D-Littleton), and Representative Christine Scanlan (D-Dillon) voted with the minority Republicans against the bill. CACI Governmental Affairs Vice President Loren Furman lobbied against the bill as did other members of a business coalition that included the Northern Colorado Legislative Alliance and the following CACI members: Associated Builders and Contractors (Rocky Mountain Chapter) and Associated General Contractors.

HB-1210 Bill would force employers to provide paid sick leave (Rep. McGihon/Senator Carroll)

Among other things, the bill would require that companies provide the leave according to the following schedule based on the size of firms:

- For companies with more than 15 workers, on hour of sick leave for every 30 hours worked up to a total of 72 hours paid sick leave in a twelve-month period;
- For employers with at least six workers and up to 15, one hour of sick leave for every 60 hours worked up to a total of 40 hours in a 12-month period.

Position: **OPPOSE**

Status: HB-1210 was killed at the request of its sponsor, Representative Anne McGihon (D-Denver), on Tuesday, March 3rd, by the House Business Affairs and Labor Committee.

SB-23 Mandate that employers verify work-eligibility status of prospective workers through the federal “E-Verify” program (Rep. Lambert/Senator Schultheis)

SB-23 would have repealed existing state law governing how employers screen prospective new workers and impose the “Fair and Legal Employment for Coloradans Act.” This proposal would have mandated that Colorado private-sector employers participate in the voluntary federal electronic verification program called E-Verify to determine the legal eligibility for employment of prospective workers. CACI’s primary objection was that the underfunded E-Verify Program is neither accurate nor provides for timely verification of work-eligibility status. SB-23 was modeled on a controversial, stringent Arizona law that is being fought by employers in Federal Court. Among other things, SB-23 would have allowed a co-worker to bring up a complaint against an employer if the worker thought that a co-worker was an illegal



immigrant. The bill also included a ten-day business license revocation if it could have been proven that the company hired an illegal worker. If there was a subsequent offense, the business could have lost its business license permanently.

Position: **OPPOSE**

Status: On February 9th, the Senate State, Veterans and Military Affairs Committee killed SB-23 on a party-line 3-2 vote. On February 4th, Larry Hudson, CACI Contract lobbyist, testified in opposition to SB-23 before the Committee.

BILLS SIGNED BY THE GOVERNOR

SB-212 Bill to reduce vendors' fee allowance to supplement state general fund (Senator White/Rep. Pommer)

In January, Governor Bill Ritter proposed reducing the vendors-fee allowance to use that tax revenue to help close the budget gap. Retailers are currently allowed to keep three and one-third percent of the state sales and use tax that they collect to offset their administrative costs to collect and remit the tax to the Colorado Department of Revenue. In 2002, the vendor-fee allowance was reduced by one percent for two years by the legislature to help revenue to balance the budget following the 2001 recession.

The Governor said that this cap would only affect 1,700 of the state's 91,500 vendors who collect the tax and would save the state \$12.8 million in the current fiscal year. This bill would hit hard the large retailers. According to the legislative Fiscal Note, "Only vendors with taxable sales in excess of approximately \$431,000 per month will be impacted." In effect, the bill will take \$93 million over a three-year period from retailers to shore up the state general fund. This bill is being "fast-tracked" by the legislative leadership. Here are the major provisions of the introduced bill:

- A cap of \$417 per month, or \$5,000 annually, that a vendor can retain to cover the expense of collecting and remitting the sales tax, which will severely affect large businesses;
- Small retailers will be exempt;
- A sunset date of July 2013;

The bill applies to any return on or after March 1, 2009, so businesses will have to adjust their filings in less than one month.

Position: **OPPOSE**

Status: The House on February 23rd adopted on Second Reading an amendment offered by Representative Jerry Frangas (D-Denver). Businesses that collect \$300 dollars or less per month in sales and use tax (which requires \$10,345 in monthly taxable sales) are exempt from the bill and thus may continue to retain the full three and one-third percent as their allowance. The number of these small firms is estimated to be 59,000, which represents two-thirds of all filers. Businesses that collect more than \$300 may keep 1.35 percent of the tax that they collect for the period from March 2009 until July 2011. CACI has worked hard with Colorado Retail Council and other members of a business coalition to support the Frangas amendment. In the Senate, the bill was amended in a manner similar to the Frangas amendment with a two-year sunset provision and elimination of the cap on the vendor fee allowance. The House Appropriations Committee on February 20th, however, amended the bill with a 3.5 year sunset provision and reinstated the cap. The House on February 24th approved the bill by a 35-30 vote on Third Reading, sending it back to the Senate. On February 25th, the Senate concurred with the House amendments and sent the bill to the Governor, who signed it the next day.

On March 4th, CACI President Chuck Berry sent a letter to Governor Bill Ritter expressing CACI's concerns about SB-212, and here is an excerpt from that letter: "[On behalf of the](#)



Colorado Association of Commerce & Industry (CACI), I want to express our serious concerns about the significant reductions in the retail vendor allowance imposed through the enactment of SB-212, which you recently signed into law. CACI recognizes that the sharp revenue reductions caused by the recession have caused serious budget challenges for Colorado, and that the decision to reduce the retail vendors allowance to help balance the budget was not an easy choice. We are, however, very concerned that there may be additional legislative efforts this session to further reduce, or even repeal, the retail vendors allowance. **Any such legislative efforts will be strongly opposed by CACI and the broad business community.**”



For More Information on Legislation . . .

CACI members with questions about legislation that CACI opposes or supports should contact **Chuck Berry**, CACI President, at 303.866.9652 or e-mail him at cberry@COchamber.com

Questions pertaining to health-care bills should be directed to **Ralph Pollock**, Chair of the CACI HealthCare Council, at 303.866.9657 or via e-mail at ralph@apaccess.com