

Bill to Expand Civil Remedies and Penalties In State Anti-Discrimination Claims Dies on Tie Vote on House Second Reading

April 15--Sponsored by Representative Claire Levy (D-Boulder), HB-1269 died today on a tie 32-32 vote in the House on the Second Reading vote. CACI opposed this bill, which also had been named a priority for defeat by the CACI Governmental Affairs Council.

The bill would have established the “Workplace Fairness and Civil Rights and Remedies Act of 2010.” The bill would have allowed additional remedies of compensatory and punitive damages in employment discrimination cases brought under Colorado law. Under current law, plaintiffs who win employment discrimination and other types of employment claims can recover actual economic damages, such as lost wages.

CACI appreciates the efforts of the House members who opposed the bill. The minority-party Republicans present in the House Chamber unanimously opposed HB-1269. They were joined by five majority-party Democrats--Representatives Joe Rice (Centennial), Jim Riesberg (Greeley), Christine Scanlan (Dillon), Wes McKinley (Walsh) and Ed Casso (Commerce City)—and one Independent, Representative Kathleen Curry (Gunnison). One Republican member, Representative Jerry Sonnenberg (Sterling), was absent.

Members of the Governmental Affairs Council that actively worked with CACI to defeat this bill included: Waste Management, Tri-State Generation and Transmission Association, Colorado Civil Justice League, Colorado Auto Dealers Association, Colorado Retail Council, Colorado Motor Carriers Association, West Chamber Serving Jefferson County, Metro North Chamber of Commerce and the Arvada Chamber of Commerce. Other business organizations, such as the Colorado Civil Justice League, which is mutually affiliated with CACI, opposed the bill. CACI member DeFilippo Rees Robinette LLC, a lobbying organization, worked against the bill on behalf of a client, the Colorado Stone, Sand and Gravel Association.

The CACI Governmental Affairs Council’s concerns with HB-1269 included the following:

- The bill would have made it more lucrative for both the plaintiff and his or her attorney to file lawsuits against Colorado employers, which would have encouraged more lawsuits against employers.
- Small companies don’t have adequate human resources departments to avoid the many litigation traps they face every time they make a decision to hire, promote or fire an employee. Additionally, small firms often do not have the resources to defend these cases--even meritless cases--and may thus be persuaded to settle early rather than defend themselves, thereby encouraging more claims.
- Large companies with 15 or more employees already face most, but not all, of the bill’s expanded penalties under Federal law. HB-1269 would have led to "forum shopping" among federal and state courts in employment cases.
- The new employment-related case load, which this bill would have created, would have further slowed down state courts--where little employment litigation now takes place--and would have cost taxpayers.

- Although the General Assembly this session says it is encouraging new-jobs creation, this bill would have encouraged new lawsuits that would have made it more costly for employers to hire new workers or re-hire laid-off workers.

For an article yesterday on the bill by Ed Sealover, statehouse reporter for *The Denver Business Journal*, click here:

<http://denver.bizjournals.com/denver/stories/2010/04/12/daily49.html>

For further information on the bill, contact Loren Furman, CACI Vice President of Governmental Affairs, at 303.866.8642 or via e-mail at lfurman@COchamber.com or Larry Hudson, CACI contract lobbyist, at 303.249.4234 or via e-mail at larry@hudsonga.com