



2012 Legislative Session: Key Wins for Business; Special Session to Come

By
Chuck Berry
CACI President

For CACI and the statewide business community that it represents, the outcome of the 2012 session strengthens the Colorado business climate for continued economic recovery.

There were two keys to the success of CACI's advocacy under the Gold Dome: its experienced lobbying team and the active participation of CACI members in CACI's five Councils (Governmental Affairs, Energy and Environment; HealthCare; Labor and Employment; and Tax).

First, CACI's widely respected, effective lobbying effort was headed up by Loren Furman, CACI Senior Vice President, State and Federal Relations, and included Carly Dollar, CACI Governmental Relations Representative, and Larry Hudson, CACI Governmental Relations Consultant.

Second, CACI Council members provided valuable insight into how proposed legislation would affect their companies and, in some instances, testified for CACI before legislative committees.

CACI lobbied to successfully pass pro-business legislation, including the following:

- HB-1272, which extends enhanced Unemployment Insurance (UI) benefits for qualified out-of-work individuals participating in approved training programs;
- HB-1002, the "Creating Level Expectations for Application Review (CLEAR) Act";
- HB-1022, which concerns water replacement because of mining operations;
- HB-1312, which tells the Public Utilities Commission that it need not consider local land-use issues when deciding whether or not to grant a certificate to site electrical transmission lines; and
- HB 1241, which establishes an Enterprise Zone Taskforce who would evaluate the State's Enterprise Zone Program and provide recommendations to the General Assembly.

The Legislature's stalemate on the civil-union bill, however, resulted in the death of two bills that CACI had advocated, including the following:

- SB-177, which concerned employers' unemployment-insurance (UI) ratings and would have reduced those ratings when Colorado issues bonds to repay its Federal UI debt. This issue will be re-addressed during the 2012 Special Session, and CACI will strongly advocate for its passage during the Special Session;
- SB-27, which would have required state agencies to notify legislative sponsors and legislative "committees of reference" of rules issued by the agencies because of enacted legislation.

CACI worked hard to successfully defeat measures that would have harmed businesses, including:

- The session's worst bill for business, SB-153, which would have turned upside down the state's product liability law and which would have particularly harmed manufacturers;
- Four bills that would have restricted oil-and-gas "fracking" beyond the regulations established by the Colorado Oil and Gas Conservation Commission;
- Three protectionist bills (HB-1113, SB-1 and SB-4) that would have made state government purchasing more costly for taxpayers and harmed companies seeking state contracts;
- And SB-3 which would have restricted an employer's ability to use important tools during the hiring process.

In addition, CACI worked to amend bills that it initially opposed when introduced. For example, CACI successfully fought two bills (HB-1251 and HB-1260) that would have restricted the state's enterprise-zone program but worked with the sponsor of another (HB-1241, which passed) to reach a compromise to study the program.

Finally, CACI deeply appreciates the efforts of pro-business legislators to help employers retain and create jobs, thus strengthening the state's foundation for continued economic recovery.

CACI Policy Council Positions on 2012 Legislation



Energy & Environment Council Bills

HB 1022 by Sonnenberg/Schwartz
HB 1161 by Looper/K.King
HB 1173 by Wilson
HB 1176 by Ryden
HB 1277 by Jones
HB 1312 by Sonnenberg/Johnston
SB 77 by Jahn/Sonnenberg
SB 107 by Carroll/Wilson
SB 178 by Giron/Swerdfeger

Gov't Affairs Council Priority Bills

SB 01 by Hudak/Ryden/Duran
SB 03 by Carroll/Fischer
SB 153 by Morse

HealthCare Council Bills

HB 1058 by Joshi/Nicholson
HB 1242 by Massey/Boyd
HB 1300 by Gardner/Aguilar
SB 18 by Lundberg
SB 37 by King S./Young
SB 53 by Neville/Looper
SB 54 by Boyd
SB 153 by Morse

Labor & Employment Council Bills

HB 1061 by Kagan
HB 1082 by Soper
HB 1113 by Lee
HB 1210 by Beezley/Jahn
HB 1272 by Duran/Ramirez
HB 1296 by Singer
HB 1305 by Gardner
SB 01 by Hudak/Ryden/Duran
SB 03 by Carroll/Fischer
SB 04 by Foster/Miklosi
SB 54 by Boyd
SB 153 by Morse
SB 177 by Jahn/Liston

Tax Council Bills

HB 1029 by Holbert/Scheffel
HB 1069 by Miklosi/Shaffer
HB 1241 by Ferrandino
HB 1251 by Hullinghorst/Heath
HB 1260 by Labuda
SB 52 by Scheffel/Priola
SB 101 by Nicholson/Bradford

Regulatory Reform Bills

HB 1002 by Sonnenberg/Jahn
HB 1007 by Szabo/Grantham
HB 1115 by Liston/Jahn
SB 27 by Scheffel
SB 73 by Cadman
SB 80 by Mitchell
SB 83 by Scheffel/DelGrosso

Bill Name/Description

Establish Mines Water Replacement
Water Nutrient Standards
Mandate Closed Pit Drilling
Oil Gas Drilling Setbacks
Local Control O&G Regs
Transmission Siting PUC
Repeal Regulation of Yellow Grease
Oil & Gas Fracking
Renewable Energy Standard Credit

Bill Name/Description

Procurement Preferences
Credit Information
Sunshine in Litigation Act

Bill Name/Description

Infant Eye Prophylaxis
Biometric Prescribing System
Continue Professional Review
Alt. Medicaid Program Elderly
Elec. Prescription Substances
Repeal of CO Health Exchange
No Retaliation Health Employees
Sunshine Litigation Act

Bill Name/Description

Skills for Jobs Act
Prevailing Wages
Bid Preferences
Out of State Professions
Training UI Claimants
Wage Theft
Pre-Judgment Interest
Procurement Preferences
Credit Information
Preference for US Materials
Health Care Worker Retaliation
Sunshine Litigation Act
Unemployment Insurance Rates

Bill Name/Description

Econ Stimulus BPPT Exemption
Sales Tax Holiday
Enterprise Zone Designations
Reform of Enterprise Zone Act
Cap on Enterprise Zone Credit
Local & State Prop. Tax Exemption
Local Improvement Districts

Bill Name/Description

CLEAR Act
Regulatory Analysis Requirement
Business Impact Statements
Review of Rules
Legislative Intent in Rules
Business Comment Fiscal Impact
Dynamic Modeling for Fiscal Impact

Council Position

Support/Signed by Governor
Support/Dead
Oppose/Dead
Oppose/Dead
Oppose/Dead
Support/Signed by Governor
Support/Signed by Governor
Oppose/Dead
Oppose/Dead

Council Position

Oppose/Dead
Oppose/Dead
Oppose/Dead

Council Position

Support/Signed by Governor
Oppose/Dead
Support/Sent to Governor
Oppose/Dead
Support/Signed by Governor
Oppose/Dead
Oppose/Dead
Oppose/Dead

Council Position

Support/Signed by Governor
Opposed/Dead
Oppose/Dead
Oppose/Dead
Support/Sent to Governor
Oppose/Dead
Support/Dead
Oppose/Dead
Oppose/Dead
Oppose/Dead
Oppose/Dead
Oppose/Dead
Support/Dead

Council Position

Support/Signed by Governor
Support/Dead
Support/Sent to Governor
Oppose/Dead
Oppose/Dead
Support/Dead
Amended/Dead

Taskforce Position

Support/Sent to Governor
Support/Dead
Support/Dead
Support/Dead
Support/Dead
Support/Dead
Support/Dead

Bill Descriptions by Council

Energy & Environment Council

HB 1022 – Establish Mines Water Replacement (Sponsors: Rep. Sonnenberg & Sen. Schwartz)

CACI Position: **Support**

Bill Status: Signed by Governor on 3/15/12

House Bill 1022 bill specifies that mining operators will not be required to replace the amount of historic natural depletion to stream water that is attributable to preexisting natural evapotranspiration within the mined area.

CACI's Energy & Environment Council took a support position on the bill, which passed unanimously in both chambers and was signed by the Governor.

HB 1161 – Water Nutrient Standards (Sponsors: Rep. Loper & Sen. K. King)

CACI Position: **Support**

Bill Status: Bill died in Senate Committee on Agriculture, Natural Resources & Energy 5/3/12

As introduced, House Bill 1161 would have prohibited the Water Quality Control Commission (WQCC) from adopting a water quality standard for nitrogen, phosphorus, or related nutrients until the proposed standard is approved by the General Assembly in a bill, and would have had a scientific board study the issue over the interim. Senate sponsor Keith King worked to amend the bill substantially to address concerns about the bill, proposing a strike below directing the Water Resources Review Committee to consider the issue of costs of infrastructure and implementation of the standards over the interim.

CACI filed as a party to the rulemaking on water nutrient standards due to significant concerns regarding costs to CACI members, and CACI's Energy & Environment Council took a support position on the bill. The bill died on a party-line vote.

HB 1173 – Mandate Closed Pit Drilling (Sponsor: Rep. Wilson)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on Local Government on 2/6/12

House Bill 1173 would have prohibited the use of an open pit in hydraulic fracturing and required the use of a closed loop system for hydraulic fracturing treatments.

Concerns by CACI members were raised about setting mandates on this subject in statute rather than addressing the issue through the Colorado Oil & Gas Conservation Commission (COGCC) regulatory process. CACI's Energy & Environment Council took an oppose position on the bill.



HB 1176 – Oil Gas Drilling Setbacks (Sponsor: Rep. Ryden)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on Local Government on 2/6/12

House Bill 1176 would have required the Colorado Oil & Gas Conservation Commission (COGCC) to increase setbacks to at least 1000 feet from any school or residence, up from the current requirement of 150 feet from a building in low-density areas and 350 feet in a high-density area. The bill also expanded the definition of “surface owner” to include owners of land overlying well bores.

Concerns were raised by CACI members about arbitrarily setting mandates on this subject in statute rather than addressing the issue through the COGCC regulatory process, as well as the expansion of defining surface owners. CACI’s Energy & Environment Council took an oppose position on the bill.

HB 1277 – Local Control Oil & Gas Regulations (Sponsors: Rep. Jones & Sen. Bacon)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on Local Government on 2/20/12

House Bill 1277 would have given local governments the same authority to regulate oil and gas operations as the Colorado Oil & Gas Conservation Commission (COGCC), allowing all 64 counties and hundreds of towns and cities to enact rules that are entirely their own regarding oil and gas operations.

Concerns were raised by CACI members that the legislation would have created confusion and uncertainty in the industry. CACI’s Energy & Environment Council opposed the bill on the basis that oil and gas regulations are a matter of statewide concern.

HB 1312 – Transmission Siting PUC (Sponsors: Rep. Sonnenberg & Sen. Johnston)

CACI Position: **Support**

Bill Status: Signed by Governor on 4/12/12

House Bill 1312 specifies that the Colorado Public Utilities Commission (PUC), when determining whether to grant a certificate of public convenience and necessity (CPCN) for the siting of proposed electric transmission lines or associated facilities, should not consider local land use issues. Issues such as the location or alignment of the proposed lines or facilities are to be addressed through a local government’s land use regulations.

CACI’s Energy & Environment Council supported the bill on the basis that streamlining the process for building transmission lines is helpful to economic development and job growth efforts in Colorado.

SB 77 – Repeal Regulation of Yellow Grease (Sponsors: Sen. Jahn & Rep. Sonnenberg)

CACI Position: **Support**

Bill Status: Signed by Governor on 4/6/12

In 2010, HB10-1125 authorized CDPE to regulate certain persons, facilities and vehicles engaged in the collection, transportation, storage, processing, and disposal of trap grease and yellow grease. Senate Bill 77 repeals the regulation of yellow grease as a hazardous waste, based on evidence that yellow grease is a safe product used in many products, and a commodity with high value.

CACI’s Energy & Environment Council supported the bill in response to the high fees associated with the 2010 bill and the sufficient regulations for the industry that exist outside of those set in place by HB 10-1125.



SB 107 – Oil & Gas Fracking (Sponsors: Sen. Carroll & Rep. Wilson)

CACI Position: **Oppose**

Bill Status: Bill Died Without Hearing in Senate Committee on Appropriations on 5/8/12

As introduced, SB 107 was comprised of many components, including a section on fracking near radioactive materials, a prohibition on use of chemicals that cause cancer, a requirement that operators that engage in “high-risk fracking” take out an additional environmental bond that would be forfeited if the operator’s operations cause any damage to water, a definition of “high risk fracking” that would have included essentially all fracking in the state, and a presumption that an operator is responsible for any pollution near a fracking site. An amendment was adopted in the Senate Agriculture, Natural Resources and Energy Committee but the language did not alleviate concerns raised by CACI members on the bill.

CACI’s Energy & Environment Council opposed the bill as an unnecessary overstep into the existing Colorado Oil & Gas Conservation Commission (COGCC) process, undermining the existing process that encourages investment in Colorado.

SB 178 – Renewable Energy Standard Credit (Sponsors: Sen. Giron & Rep. Swerdfeger)

CACI Position: **Oppose**

Bill Status: Bill died on Senate 2nd Reading

Senate Bill 178 would have modified Colorado’s Renewable Portfolio Standard (RPS) to remove in-state preferences with respect to wholesale distributed generation, the existing one and one-quarter kilowatt-hour multiplier for eligible resources other than retail distributed generation and community-based projects, and policies providing incentives for qualifying retail utilities to invest in eligible resources.

The bill was initiated by the Attorney General’s Office to address an issue with the Interstate Commerce Clause presented by the 1.25 multiplier toward meeting the RPS for renewable energy generated in Colorado.

CACI’s Energy & Environment Council opposed the bill based on increased costs that would result from eliminating the in-state multiplier, which would in practice be an expansion of the RPS. The bill was introduced during the final two weeks of session and was scheduled for a hearing 24 hours after introduction which raised concerns by CACI members about unintended consequences. The bill was laid over to May 15th on the Senate floor effectively killing the bill.

Following defeat of the bill, the Attorney General’s Office and the Governor’s Office negotiated with CACI members to find a fix on the issue. HB 1351 – Recycled Energy by Rep. Becker and Sen. Tochtrop, was amended to be the vehicle for the compromise. Language from SB 178 that struck the words “in Colorado” in several places regarding the multiplier was added, allowing renewable energy from any state to be eligible for the multiplier. Additionally, language from HB 1160 – Captured Methane from Coal Mines which adds coal mine methane gas to the list of new energy technologies for meeting the Renewable Portfolio Standard, was incorporated as part of the compromise as well. HB 1351 died on the Senate 3rd Reading Calendar on 5/9/12.



Government Affairs Council Priority Bills

SB 1 – Contracting Preferences (Sponsors: Sen. Hudak, Rep. Duran & Rep. Ryden)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on State, Veterans & Military Affairs on 4/25/12

Senate Bill 1 stated that a company who bids with the State for products or services could receive a 5% bid preference on state contracts above \$1 million if 90% of the company's workers are Colorado residents, and if the company provides health insurance benefits as well as retirement benefits for their employees. The bill also stated that construction companies had to provide an apprenticeship program for their employees.

CACI's Governmental Affairs Council identified the bill as a priority bill to defeat based on concerns that the bill would drive up costs and limit bids for Colorado companies.

SB 3 – Use of Credit Information by Employers (Sponsors: Sen. Carroll & Rep. Fischer)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on Local Government on 3/19/12

Senate Bill 3 prohibited an employer from using a credit report in their hiring process unless the applicant would be handling money or do asset management. The bill was later amended to only exempt occupations that involve defense or security contracts.

CACI's Governmental Affairs Council identified the bill as a priority bill to defeat. CACI members Stacey Campbell, an attorney with the law firm of Littler Mendelson, and Chris Ottele, an attorney with the law firm of Husch Blackwell both testified against the bill.

SB 153 – Sunshine Litigation Act (Sponsor: Senator Morse)

CACI Position: **Oppose**

Bill Status: Bill died in Senate Committee on Judiciary on 4/9/12

SB 153 defined a public hazard as any device, instrument, or product, or any condition of a device, instrument, or product that has caused injury and may cause injury in the future. The bill also barred a court from keeping confidential, during the discovery phase of a civil lawsuit, information from a company about its product if the company could not prove that the information is not related to a "public hazard."

CACI members raised concerns that the bill would have exposed trade secrets and proprietary information used in developing a product. The bill was deemed as one of the worst bills for business during the 2012 Session. CACI's Governmental Affairs Council identified the bill as a priority bill to defeat.

The sponsor ultimately postponed the bill indefinitely in the Senate Judiciary Committee and stated that he was killing his bill based on the significant costs estimated in the fiscal note.



HealthCare Council

HB 1058 – Infant Eye Prophylaxis (Sponsors: Rep. Joshi & Sen. Nicholson)

CACI Position: **Support**

Bill Status: Signed by Governor on 3/24/12

House Bill 1058 eliminates duties of the Colorado Department of Public Health and Environment regarding the provision of a prophylaxis for treating the eyes of newborn children, and requires the health care provider in charge of a birth to treat a newborn child with an eye prophylaxis in accordance with the current medical standard of care.

CACI's Health Care Council took a support position on the bill which was signed by the Governor on 3/24/12.

HB 1242 – Biometric Prescribing System (Sponsors: Rep. Massey & Sen. Boyd)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on Health & Environment on 3/15/12

House Bill 1242 required the Colorado Department of Regulatory Agencies to develop an electronic system to monitor and store information in a secure database regarding the prescribing of prescription drugs, the dispensing or delivery of prescription drugs by a prescription drug outlet or health care practitioner, and the dispensing or delivery of restricted over-the-counter substances.

CACI's Health Care Council had significant concerns with the bill and took an oppose position based on lack of information on the history and success of similar databases in other states, as well as concerns with the administrative costs and security of the information.

HB 1300 – Sunset Continue Professional Review Committee

CACI Position: **Support**

Bill Status: Bill passed in both chambers and has been sent to the Governor

House Bill 1300 as amended implements the recommendations from the Department of Regulatory Agencies 2011 Sunset Review and extends the functions of professional review committees under the Colorado Professional Review Act until September 1, 2019.

On or before July 1, 2013, and each year thereafter, the governing boards for health care providers covered by the bill are required to register with the Division of Registrations and report on their professional review activities.

SB 18 – Alternative Medicaid Program for Elderly (Sponsor: Senator Lundberg)

CACI Position: **Oppose**

Bill Status: Bill died in Senate Committee on Health & Human Services on 2/2/12

Senate Bill 18 created the Alternative Medical Assistance Program for the Elderly within the CO Department of Health Care Policy and Financing, subject to federal authorization. The program would have allowed a Medicaid-eligible person, age 55 or older, to accept an amount equivalent to 70 percent of the medical assistance benefits the person would have received in the traditional Medicaid program. CACI's Health Care Council opposed SB 18 which died in its first committee of reference.



SB 37 – Electronic Prescription Controlled Substances (Sponsors: Sen. King & Rep. Young)

CACI Position: **Support**

Bill Status: Signed by Governor on 3/22/12

Senate Bill 37 allows a pharmacy to dispense a prescribed Schedule II, III, IV, or V controlled substance from an electronically transmitted prescription. It also allows a practitioner to dispense these controlled substances directly to the ultimate user without a written prescription.

CACI's Health Care Council supported the bill which was signed by the Governor on 3/22/12.

SB 53 – Repeal of Colorado Health Benefit Exchange (Sponsors: Sen. Neville, Rep. Loper)

CACI Position: **Oppose**

Bill Status: Died in Senate Committee on Health & Human Services on 2/2/12

Senate Bill 53 would have repealed the Colorado Health Benefit Exchange Act if the federal Patient Protection and Affordable Care Act is ruled unconstitutional, in full or in part, by the United States Supreme Court or is repealed by Congress.

CACI's Health Care Council opposed this bill based on CACI's support of SB 200 (Creation of CO Health Benefit Exchange), which was adopted during the 2011 Legislative Session.

SB 54 – No Retaliation Against Health Employees (Sponsor: Senator Boyd)

CACI Position: **Oppose**

Bill Status: Died in Senate Committee on Health & Human Services on 2/16/12

Senate Bill 54 prohibited a licensed health care facility or its agent from retaliating against an employee when the employee is using best practices and acting in the best interests of a patient. The bill also defined retaliation.

CACI's Health Care Council opposed this bill based on concerns that the terms of a professional's best clinical or medical judgment were subjective. Additionally, the Council believes that employers and their human resource departments should have the flexibility to exercise their own employment standards based on the business they operate.

Based on opposition to the bill, the bill sponsor postponed the bill indefinitely in the Senate Health & Human Services Committee effectively killing the bill.



SB 153 – Sunshine Litigation Act (Sponsor: Senator Morse)

CACI Position: **Oppose**

Bill Status: Bill died in Senate Committee on Judiciary on 4/9/12

Senate Bill 153 defined a public hazard as any device, instrument, or product, or any condition of a device, instrument, or product that has caused injury and may cause injury in the future. The bill also barred a court from keeping confidential, during the discovery phase of a civil lawsuit, information from a company about its product if the company could not prove that the information is not related to a “public hazard.”

CACI members raised concerns that the bill would have exposed trade secrets and propriety information used in developing a product. This bill was deemed to be one of the worst bills for business this Session. CACI’s Health Care Council took an opposed position on the bill.

The sponsor ultimately postponed the bill indefinitely in the Senate Judiciary Committee and stated that he was killing his bill based on the significant costs estimated in the fiscal note.

Labor & Employment Council

HB 1061 – Skills for Jobs Act (Sponsors: Rep. Kagan & Sen. Newell)

CACI Position: **Support**

Bill Status: Signed by Governor on 4/2/12

House Bill 1061 requires that the Colorado Department of Higher Education, in consultation with the CO Department of Labor & Employment and the CO Department of Regulatory Agencies, produce an annual report projecting workforce needs, number of degrees, certificates and other post secondary credentials that they anticipate to issue. The intent of the bill is to align workforce needs with higher education graduates.

HB 1082 – Prevailing Compensation on Public Works Projects (Sponsor: Rep. Soper)

CACI Position: **Oppose**

Bill Status: Died in House Committee on Local Government on 1/25/12

House Bill 1082 required a contractor who is awarded a public works contract at \$100k or more to pay their workers prevailing wages and fringe benefits. The bill penalized a contractor if they failed to follow the requirements and allowed for a private right of action.

Concerns were raised by CACI members that the bill limited the amount of money that can be used for construction projects because those funds will be used to pay higher wages and benefits. Addition concerns were that a private right of action suit could bankrupt small/midsize construction companies, and that the bill would limit competition among construction firms.

CACI’s Labor & Employment Council took an oppose position on the bill for the third year in a row, and the bill died in the House Committee on Local Government on 1/25/12.



HB 1113 – Preferences in State Public Contracts (Sponsor: Rep. Lee)

CACI Position: **Oppose**

Bill Status: Died in House Committee on State, Veterans & Military Affairs on 2/22/12

HB 1113 stated that a company who bids with the State for products or services could receive up to a 5% bid preference for contracts over \$500,000 if 90% of the company's workers are Colorado residents. If the company provides health insurance benefits as well as retirement benefits for their employees and if it was a veteran business. The bill also stated that construction companies had to provide an apprenticeship program for their employees.

CACI's Labor & Employment Council opposed the bill based on concerns that the bill would drive up costs and limit bids for Colorado companies.

HB 1210 – Out of State Professionals to Practice (Sponsors: Rep. Beezley & Sen. Jahn)

CACI Position: **Oppose**

Bill Status: Died in Senate Committee on Health & Human Services on 3/15/12

HB 1210 allowed someone who held a valid professional license, registration, or certification in another state to practice in CO for up to 1 year before meeting state requirements.

Concerns were raised that the bill would have allowed professionals and businesses from other states to seek work in Colorado without having to meet the same minimum licensure and safety requirements as those already in Colorado. CACI's Labor & Employment Council opposed the bill which died in the Senate Committee on Health & Human Services.

HB 1272 – Enhanced Benefits UI Training (Sponsors: Reps. Ramirez, Duran & Sen. Newell)

CACI Position: **Support**

Bill Status: Bill was sent to the Governor

House Bill 1272 extends enhanced unemployment insurance benefits for unemployment insurance claimants who are engaged in an approved training program provided by CO employers. The bill authorizes \$8 million by the Department of Labor & Employment that can be used to train individuals to get them back into the workforce.

CACI's Labor & Employment Council took a position in support of the bill. CACI members stated that they would like to provide skilled training to individuals seeking employment since many applicants do not have the training they need to be hired.

HB 1296 – Criminal Wage Theft (Sponsor: Singer)

CACI Position: **Oppose**

Bill Status: Died in House Committee on Judiciary on 2/28/12

House Bill 1296 amended the criminal code to add the crime of wage theft and defined wage theft when a person fails to pay wages or compensation to a worker.

The CACI Labor & Employment Council opposed the bill because federal and state law already imposes penalties for willful violations involving wage disputes. Additionally, the penalties created in the bill for the crime of wage theft were determined to be excessive since the penalties could lead to a Class 4 felony - a classification that includes manslaughter.



HB 1305 – Statutory Rates of Interest (Sponsors: Rep. Gardner & Sen. S. King)

CACI Position: **Support**

Bill Status: Died on House 3rd Reading on 3/28/12

House Bill 1305 would have changed the “pre-judgment interest rate” on personal-injury lawsuits from a fixed rate set in statute to a floating rate. Specifically, the rate would have changed from 9.0 percent to 2.0 percentage points above the discount rate a commercial bank pays to the Federal Reserve Bank of Kansas City on January 2nd of the year the money is awarded, rounded to the nearest full percentage.

The goal of changing the rate to a floating rate was to avoid allowing trial lawyers, operating under a contingency fee arrangement with a plaintiff, to drag out a lawsuit and delay the judgment to maximize the dollar amount of the pre-judgment interest rate of the damages.

CACI’s Labor & Employment Council took a support position on the bill. The bill died on a House 3rd Reading vote when Republican Representative Nikkel joined the Democrats to kill the bill.

SB 1 – Contracting Preferences (Sponsors: Sen. Hudak, Rep. Duran & Rep. Ryden)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on State, Veterans & Military Affairs on 4/25/12

Senate Bill 1 stated that a company who bids with the State for products or services could receive a 5% bid preference on state contracts over \$1 million if 90% of the company’s workers are Colorado residents and if the company provides health insurance benefits as well as retirement benefits for their employees. The bill also stated that construction companies had to provide an apprenticeship program for their employees.

CACI’s Labor & Employment Council took an oppose position on the bill based on concerns that the bill would drive up costs and limit bids for Colorado companies.

SB 3 – Use of Credit Information by Employers (Sponsors: Sen. Carroll & Rep. Fischer)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on Local Government on 3/19/12

Senate Bill 3 prohibited an employer from using a credit report in their hiring process unless the applicant would be handling money or do asset management. The bill was later amended to only exempt occupations that involve defense or security contracts.

CACI’s Labor & Employment Council opposed the bill based on concerns that it would limit employers from determining whether an applicant had provided fraudulent information to an employer. Currently, employers must comply with employment procedures through the Federal Fair Credit Reporting Act and penalties can be assessed if violations are committed.

CACI members Stacey Campbell, an attorney with the law firm of Littler Mendelson, and Chris Ottele, an attorney with the law firm of Husch Blackwell both testified against the bill.



SB 4 – Preference for US Materials in Public Contracts (Sponsor: Sen. Foster & Rep. Miklosi)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on State, Veterans & Military Affairs on 4/26/12

Senate Bill 4 provided for a 1% bid preference for state contracts over \$1 million if the bidder uses US manufactured products. Additionally the bill states that the materials must be equal in quality to those manufactured outside the US and can't exceed the cost of items manufactured outside the US by 5%.

CACI's Labor & Employment Council opposed this bill based on concerns that the bill could increase costs for the State and limit bid opportunities.

SB 54 – No Retaliation Against Health Employees (Sponsor: Senator Boyd)

CACI Position: **Oppose**

Bill Status: Died in Senate Committee on Health & Human Services on 2/16/12

Senate Bill 54 prohibited a licensed health care facility or its agent from retaliating against an employee when the employee is using best practices and acting in the best interests of a patient. The bill also defined retaliation.

CACI's Labor & Employment Council opposed this bill based on concerns that the terms of a professional's best clinical or medical judgment were very subjective. Additionally, the Council believes that employers and their human resource departments should have the flexibility to exercise their own employment standards based on the business they operate.

Based on opposition to the bill, the bill sponsor postponed the bill indefinitely, effectively killing the bill in the Senate Committee on Health & Human Services.

SB 153 – Sunshine Litigation Act (Sponsor: Senator Morse)

CACI Position: **Oppose**

Bill Status: Bill died in Senate Committee on Judiciary on 4/9/12

SB 153 defined a public hazard as any device, instrument, or product, or any condition of a device, instrument, or product that has caused injury and may cause injury in the future. The bill also barred a court from keeping confidential, during the discovery phase of a civil lawsuit, information from a company about its product if the company could not prove that the information is not related to a "public hazard".

CACI members raised concerns that the bill would have exposed trade secrets and propriety information used in developing a product. The bill was deemed to be the worst bill for business during this Session. CACI's Labor & Employment Council took an opposed position on the bill.

The sponsor ultimately postponed the bill indefinitely in the Senate Judiciary Committee and stated that he was killing his bill based on the significant costs estimated in the fiscal note.



SB 177 – Administration of Unemployment Insurance Fund (Sponsors: Sen. Jahn & Rep. Liston)

CACI Position: **Support**

Bill Status: Bill died on House Second Reading Calendar

Senate Bill 177 allows employers to receive credit within their individual unemployment insurance accounts for payments made for repayment of principal related bond amounts to resolve the insolvency of the Colorado Unemployment Insurance Trust Fund.

The bill allows dedication of premiums for the repayment of principal on the revenue bonds and creates flexibility to ensure that Colorado employers receive beneficial premium rates.

CACI's Labor & Employment Council took a position in support of the bill. The bill died on the House Second Reading calendar on 5/8/12 based on the stalemate by the Legislature on the civil unions bill. The issue in SB 177 will be brought back during the 2012 Special Session.

Tax Council

HB 1029 – Economic Stimulus Business Personal Prop Tax (Sponsors: Rep. Holbert & Sen. Scheffel)

CACI Position: **Support**

Bill Status: Signed by Governor on 3/24/12

House Bill 1029 changed the cap for statutory business incentive agreements for counties, municipalities, and special districts. Under current law, each of those local government entities has authority to give incentive payments or tax credits of up to 50% of a taxpayer's business personal property liability. This new law increases the incentive to 100%.

CACI's Tax Council took a position in support of this bill based on the interest in providing more relief to businesses who pay business personal property tax. The bill was signed by the Governor on 3/24/12.

HB 1069 – Sales Tax Holiday (Sponsors: Reps. Miklosi & Pabon & Senator Shaffer & S. King)

CACI Position: **Support**

Bill Status: Bill died in the Senate Committee on Appropriations on 5/7/12

HB 1069 created a "sales tax holiday" on the first weekend in August each year starting in 2012 and ending in 2016. The bill limited the total purchase of school supplies to \$50, clothing to \$75, and computers to \$1,000 in order to receive the tax exemption.

The bill was amended allowing the bill to only be enacted after personal income growth in the state reaches 5% as reported annually by the Office of State Policy and Budget. This change was done based on the significant fiscal impact on the originally introduced bill. CACI's Tax Council took a position in support of the bill.

The bill died in the Senate Committee Appropriations based on a motion by Chairman Steadman (D – Denver) to postpone the bill indefinitely, effectively killing the bill. The motion was approved by a 9-0 vote.



HB 1241 – Enterprise Zone Designations (Sponsors: Rep. Ferrandino & Senator Heath)

CACI Position: **Support**

Bill Status: Bill was passed by both chambers and sent to Governor

House Bill 1241 as introduced would have changed the criteria for qualification of an enterprise zone within Colorado. It was determined that this would have eliminated a significant number of enterprise zones within the state.

CACI and other business and economic development groups worked with the House sponsor Rep. Mark Ferrandino (D – Denver) to amend the bill to eliminate the changes to the criteria and instead, create a taskforce within the Office of Economic Development & Information Technology (OEDIT). Based on the amended legislation, the taskforce is now charged with reviewing the enterprise zone program and recommending any changes if necessary to the General Assembly by November 1, 2013.

CACI’s Tax Council opposed the originally introduced bill and later supported the bill once the amendments were adopted.

HB 1251 – Reform of Enterprise Zone Act (Sponsors: Rep. Hullinghorst & Senator Heath)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on Finance on 2/29/12

HB 1251 extended the limitation on an investment tax credit to be claimed for investments in an enterprise zone beginning Jan.1, 2014. The temporary limit of \$500,000 was adopted in 2010 & expires in 2013.

The bill also required annual posting of information for taxpayers who received the tax credits on the Office of Economic Development’s website, including the name of the business. tax year. amount of the investment. amount of the tax credit. and the type of business.

CACI’s Tax Council opposed this bill because of the lack of information on the amount of state revenue collected since the cap has been in place. Additionally, CACI believes that the taskforce created through HB 1241 above can determine whether a new cap on the investment tax credit is necessary.

HB 1260 – Limit Enterprise Zone Investment Tax Credit (Sponsor: Rep. Labuda)

CACI Position: **Oppose**

Bill Status: Bill died in House Committee on Finance on 2/29/12

HB 1260 extended the cap on the investment tax credit that may be claimed for qualified investments in an enterprise zone beginning Jan. 1, 2013. The temporary cap of \$500,000 was adopted in 2010 & expires in 2013.

Under the bill, the cap was the lesser of: 1) The taxpayer’s actual tax liability for the income tax year to the extent that such liability doesn’t exceed \$5,000, plus 50% of any portion of the tax liability for the income tax year that exceeds \$5,000. or 2) \$250,000.

CACI’s Tax Council opposed this bill because of the lack of information regarding the state revenue collected since the cap has been in place. That information should be examined before placing permanent limitations on qualified investments in enterprise zones. Additionally, CACI believes that the taskforce created through HB 1241 can determine whether a new cap on the investment tax credit is necessary.



SB 52 – Local and State Property Tax Exemption (Sponsors: Senator Scheffel & Rep. Priola)

CACI Position: **Support**

Bill Status: Bill died in Senate Committee on Finance on 2/16/12

This bill increased the business personal property tax exemption for tax years 2013 and 2014 to \$14,000. Under current law, the exemption on a single personal property schedule is \$5,500 for property tax years 2011 and 2012, \$7,000 for property tax years 2013 and 2014, and an inflation-adjusted amount every two years thereafter.

The bill also capped a portion of the tax liability of a state assessed public utility at the actual value of the public utility's operating property and plant for the 2011 property tax year, plus an annual growth factor. The bill died based on the fiscal impact to local governments and school districts.

SB 101 – Local Improvement Districts (Sponsors: Senator Nicholson & Rep. Bradford)

CACI Position: **Amended**

Bill Status: Bill Died on House Second Reading Calendar.

SB 101 allows for city and county local improvement districts that levy sales tax to include noncontiguous areas. The bill also allows property owners to petition to be excluded from a taxing district.

Concerns were raised by CACI's Tax Council on the ability for retailers to accurately report and remit sales tax for retailers in non-contiguous areas, as well as concerns on the lack of criteria to be considered by the Board of County Commissioners on how taxpayers are excluded from a taxing district.

CACI worked with the Senate bill sponsor on amendments to address these concerns. The bill died on the House 2nd Reading Calendar on 5/8/12 based on the stalemate by the Legislature on the civil unions bill.

Regulatory Reform Taskforce Bills

HB 1002 – CLEAR Act & Application Permit Rules (Sponsors: Rep. Sonnenberg & Sen. Jahn)

CACI Position: **Support**

Bill Status: Bill was passed by both chambers and sent to Governor

HB 1002 amends the State Administrative Procedure Act (APA) to establish a standard procedure for permit applications and permit renewals when an applicable rule is subject to change due to recent legislation, pending rulemaking, or an agency interpretation of statutes. Under the bill, state agencies that process permits, not including professional licenses, are required to process the application or renewal using the rules in effect on the date of application, unless an applicant opts to be processed under new rules and requirements.

The bill provides exceptions for state agencies that determine the application of new rules or requirements is likely needed to avoid an unsafe situation, or to comply with federal law or a court order.

CACI's Regulatory Reform Taskforce supported HB 1002 in order to grant clarity and certainty to applicants in the permitting process by establishing that, unless there is a compelling reason as allowed for in the bill, the rules of the game will not change while an application is already in process.



HB 1007 – Regulatory Analysis Requirements for Rules (Sponsors: Rep. Szabo & Sen. Grantham)

CACI Position: **Support**

Bill Status: Bill died in Senate Committee on Local Government on 3/20/12

House Bill 1007 would have required state agencies to issue a regulatory analysis for all proposed rules and to make the analysis available to the public at least 30 days prior to the rule-making hearing. The scope of the regulatory analysis includes the effect of the proposed rule on jobs in Colorado, including whether the rule creates or eliminates jobs, causes those affected by the rule to divert resources to comply with the rule, and requires those affected by the rule to hire additional employees or increase the costs for goods and services solely to comply with the rule.

CACI's Regulatory Reform Taskforce supported requiring a cost benefit analysis on proposed regulations that reflects the full impact of a proposal, as it would not only create a fair process for companies that will be subject to the regulation, but would paint a fuller picture of the impact a regulation will have for the state's decision makers in consideration of their options. The bill failed on a party-line vote in the Local Government Committee.

HB 1115 – Business Impact Statements (Sponsors: Rep. Liston & Sen. Jahn)

CACI Position: **Support**

Bill Status: Bill died in Senate Committee on State, Veterans & Military Affairs on 3/19/12

House Bill 1115 would have required Legislative Council staff to compile and make available comments received from Colorado businesses on legislation that creates a new or increased mandate on business, or is expected to significantly increase costs on businesses. Comments would have been required to be submitted within a 10-day window and limited to those received from the first 50 businesses to respond.

CACI's Regulatory Reform Taskforce supported HB 1115, and cited examples of similar analysis done by other state legislatures, as well as Colorado's Election Blue Book, which incorporates public feedback on the impacts of ballot initiatives. The bill died on a party-line vote in the Senate State, Veterans & Military Affairs Committee.

SB 27 – Review of Rules (Sponsors: Sen. Scheffel & Rep. Ramirez)

CACI Position: **Support**

Bill Status: Bill died on House Second Reading Calendar on 5/8/12

Senate Bill 27 required the Office of Legislative Legal Services, upon adoption of each rule on or after November 1, 2011, as a result of legislation enacted on or after January 1, 2011, to provide written notification to the prime sponsors and cosponsors of the enacted legislation, as well as members of the applicable House or Senate Committee of Reference, that a rule has been adopted as a result of the legislation.

CACI's Regulatory Reform Taskforce supported SB 27 as a positive step to make it easier to see a law all the way through the process to implementation, and to provide an opportunity evaluate if the goals for the legislation that set the rulemaking in motion have been achieved.

The bill died on the House 2nd Reading Calendar based on the stalemate by the Legislature on the civil unions bill.



SB 73 – Legislative Intent in Rules (Sponsors: Sen. Cadman)

CACI Position: **Support**

Bill Status: Bill died in Senate Committee on Judiciary on 2/1/12

Senate Bill 73 would have prohibited an executive branch agency from adopting a rule pursuant to the State Administrative Procedure Act unless the agency finds that the rule is consistent with the clear legislative intent of the General Assembly, as evidenced by the public records of committee hearings and floor debates, including any statements made by the principal sponsors or proponents of the bill or an amendment to the bill before its adoption. The bill was meant to provide another ground for the Committee on Legal Services and its staff to use when it reviews rules adopted by executive agencies.

Consideration of legislative intent as a guiding principle in rulemaking would have been a benefit to the process, and CACI's Regulatory Reform Taskforce supported making that consideration an official part of the process. The bill died on a party-line vote in the Senate Committee on Judiciary on 2/1/12.

SB 80 – Business Comment Fiscal Impact (Sponsors: Sen. Mitchell)

CACI Position: **Support**

Bill Status: Bill died in Senate Committee on State, Veterans & Military Affairs on 2/13/12

Senate Bill 80 would have allowed Colorado businesses to submit comments on proposed legislation and rules, and required that the comments be summarized and compiled into a notice of reported business fiscal impacts. Comments would have been submitted within a designated 5-day period, and would briefly state the range of business fiscal impacts and methodology submitted in support of the calculations.

CACI's Regulatory Reform Taskforce supported SB 80, and cited examples of similar analysis done by other state legislatures, as well as Colorado's Election Blue Book, which incorporates public feedback on the impacts of ballot initiatives. The bill died on a party-line vote in the Senate Committee on State, Veterans & Military Affairs on 2/13/12.

SB 83 – Dynamic Modeling for Fiscal Impact (Sponsors: Sen. Scheffel & Rep. DelGrosso)

CACI Position: **Support**

Bill Status: Bill died without hearing on Legislative Council Calendar on 5/8/12

Senate Bill 83 would have established a temporary Dynamic Model Advisory Committee, comprised of the Director of Research of Legislative Council Staff, the Director of the Office of State Planning and Budgeting, one economist appointed by the Speaker of the House of Representatives, and one economist appointed by the Senate President.

The Advisory Committee would conduct research on types of dynamic models available, analyze dynamic models used in other states, assess the availability of data to be used for a dynamic model, identify any issues related to using a dynamic model to analyze the direct and indirect effects of legislation, estimate annual costs of using a dynamic model, and make recommendations regarding the purchase and use of a dynamic model.

CACI's Regulatory Reform Taskforce took a position in support of this bill in an effort to move the State toward utilizing dynamic modeling which CACI has advocated for many years.

The bill died on the Legislative Council Calendar on 5/8/12.