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The 2013 Legislative Session: A Layer Cake of Political Conflict

By Loren Furman, Senior Vice President, State & Federal Relations

Overview

The 2013 session was dominated by many deeply controversial issues—guns, civil unions, elections and marijuana--that produced a great amount of conflict, which spilled over into debates about business bills as the two political parties battled under the Gold Dome.

Despite this pervasive conflict, CACI succeeded in working with lawmakers to successfully compromise on some bills and to defeat others that were “bad-for-business.”

CACI spent the first half of the session working to amend bills, which CACI opposed as introduced, that targeted “bad apple” employers on such issues as employers’ use of credit histories of workers and job applicants, so-called “wage theft” by employers and the extension of family-and-medical leave.

During the latter part of the session, CACI defended the oil-and-gas industry against an avalanche of bills that sought to severely restrict the industry’s operation, which could have forced some companies to relocate to other, more hospitable states. CACI remains committed to working with the industry and the Colorado Oil and Gas Conservation Commission to address the issues that confront the industry.

The Session’s Complexities

In many ways, the 2013 session was like a layer cake: there were many layers to the politics and the conflict that undergirded legislation:

- More than 30 legislators were new, and their initial inexperience played a role in how the legislature processed bills;
- Caucus rules of the Democrat majority forced new members to vote a certain way on bills concerning issues about which they knew very little;
- The majority Democrats advanced bills advocated by such groups as unions and social justice and environmental organizations that had supported their elections; and
- The Democratic leadership approved “late-bill status” to complex bills concerning oil-and-gas, renewable energy standards and union-lockouts--and then fast-tracked the bills through the process, giving the business community scant time to organize opposition.

But the caucuses were not harmonious all of the time; infighting within caucuses resulted in the defeat of several bills, which concerned CACI, as the session came to a close.



Session Contrasts: The Importance of a Balanced Legislature

Compared to the 2013 session, the 2011 and 2012 sessions were governed by a political balance between the two parties that benefited the business community because only bills that garnered bipartisan support were passed.

The 2013 session, by contrast, harkens back to the 2009 and 2010 sessions when Democrats controlled both chambers and--truth be told--ran roughshod over the business community by, among other things, approving the "Dirty Dozen" tax bills that increased taxes paid by businesses by more than \$230 million.

Yet the 2013 session differed somewhat from the 2009-2010 sessions in that some Democratic members worked cooperatively with CACI and other business organizations to address business concerns.

Nonetheless, the 2013 session reminds the business community of the importance of at least having a politically balanced legislature, which forces the two parties to compromise.

If the "past is prologue," as William Shakespeare wrote in *The Tempest*, then the 2014 session will likely resemble the 2013 session, which will be probably be as difficult for Colorado businesses as this year's session.



CACI Policy Council Positions on 2013 Legislation

Gov't Affairs Council Priority Bills

- [HB 1136](#) by Levy/Carroll
- [HB 1222](#) by Peniston/Ulibarri
- [HB 1304](#) by Moreno/Guzman

Energy & Environment Council Bills

- [SB 03](#) by Baumgardner/Coram
- [SB 21](#) by Hodge/Williams
- [SB 63](#) by Gratham/Navarro
- [SB 191](#) by Hodge/Williams
- [SB 202](#) by Jones/Singer
- [SB 229](#) by Guzman/Kagan
- [SB 252](#) by Morse/Ferrandino
- [SB 272](#) by Schwartz/Fischer
- [HB 1013](#) by Sonnenberg/Baumgardner
- [HB 1216](#) by Duran
- [HB 1269](#) by Foote/Jones
- [HB 1273](#) by Fischer/Kefalas
- [HB 1316](#) by Hullinghorst/Salazar

HealthCare Council Bills

- [HB 1078](#) by Joshi/Harvey
- [HB 1115](#) by McCann/Steadman
- [HB 1121](#) by Schafer/Roberts
- [HB 1245](#) by McCann/Steadman
- [SCR 002](#) by Aguilar/Ginal
- [SJR 021](#) by Aguilar/Ginal

Labor & Employment Council Bills

- [HB 1046](#) by Williams/Ulibarri
- [HB 1136](#) by Levy/Carroll
- [HB 1222](#) by Peniston/Ulibarri
- [HB 1227](#) by Singer/Ulibarri
- [HB 1304](#) by Moreno/Guzman
- [SB 18](#) by Ulibarri/Fischer
- [SB 25](#) by Tochtrop/Williams
- [SB 147](#) by Jahn/Gardner

Tax Council Bills

- [HB 1009](#) by DelGrosso/Jahn
- [HB 1059](#) by Gerou/None
- [HB 1140](#) by Stephens
- [HB 1142](#) by Hullinghorst/Heath
- [HB 1143](#) by DelGrosso
- [HB 1174](#) by Saine/Jahn
- [HB 1177](#) by Holbert/Scheffel
- [HB 1265](#) by Hullinghorst/Heath
- [HB 1287](#) by Primavera/Scheffel
- [HB 1288](#) by Conti/Kagan

Manufacturing Initiative

- [HB 1001](#) by Young/Heath
- [HB 1165](#) by Wilson

Other bills

- [HB 1192](#) by Labuda

Bill Name/Description

- Employment Discrimination
- Expansion of FMLA
- UI Benefits During a Lockout

Council Position

- Oppose/Signed by Governor
- Amended/Neutral
- Oppose/Dead

Bill Name/Description

- Coal Mine Methane
- Pipeline Rights of Way
- Recycled Energy Gas From Waste
- Pipeline Rights of Way
- Additional Inspections O&G
- Criminal Omnibus
- Renewable Energy Standards
- Thermal Energy Mandate
- Protect Water Rights Ownership
- Incentives for Distributed Energy
- COGCC Changes
- Local Gov't Fees on O&G
- O&G Groundwater Sampling

Council Position

- Support/Dead
- Support/Dead
- Support/Dead
- Support/Dead
- Amended/Neutral
- Amended/Neutral
- Oppose/Sent to Governor
- Oppose/Dead
- Support/Dead
- Oppose/Dead
- Oppose/Dead
- Oppose/Dead
- Oppose/Dead

Bill Name/Description

- Repeal of Health Benefit Exchange
- CoverColorado Repeal
- Pharmacist Sub Biosimilar Product
- Health Exchange Funding
- Colo. Health Care Cooperative
- Interim Study Health Coop

Council Position

- Oppose/Dead
- Amended/Neutral
- Neutral/Dead
- Amended/Neutral
- Oppose/Dead
- Oppose/Dead

Bill Name/Description

- Employer Access Personal Info
- Employment Discrimination
- Expansion of FMLA
- Wage Theft
- UI Benefits During a Lockout
- Credit Reporting
- Collective Bargaining Firefighters
- Workers Compensation Liability

Council Position

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

Bill Name/Description

- Refunds Overpaid Sales & Use Tax
- Telecommunications Tax Exemption
- Creation of Tax Appeal Court
- Enterprise Zone Act Reforms
- Model Mobile Workforce Statute
- BPPT Exemptions/Small Business
- BPPT Qualification for Exemption
- Business Facility Tax Credit in EZ's
- Job Growth Incentive
- Uniform Sales & Use Tax

Council Position

- Support/Signed by Governor
- Support/Dead
- Support/Dead
- Neutral/Sent to Governor
- Support/Dead
- Support/Dead
- Support/Dead
- Support/Sent to Governor
- Support/Sent to Governor
- Support/Sent to Governor

Bill Name/Description

- Advanced Industries
- Manufacturing Career Pathway

Position

- Support/Sent to Governor
- Support/Sent to Governor

Bill Name/Description

- Genetically Modified Foods

Position

- Oppose/Dead



Governmental Affairs Council Priority Bills

HB 1136 Changes to CO Anti-Discrimination Act (Sponsors: Sens. Carroll/Guzman & Reps. Levy/Salazar)

CACI Position: **Oppose**

Bill Status: Signed by Governor Hickenlooper on 5/6/13

- House Bill 1136 as introduced allows for award of compensatory damages, punitive damages and attorney's fees to be brought against employers of all sizes in state court for discrimination claims. The bill also allows for attorney's fees to be awarded to the plaintiff but only allows for attorney's fees to be awarded to employer if claim is proven to be frivolous, groundless or vexatious;
- CACI brought its members together in January 2013 to develop a compromise based on knowledge that the bill would be introduced during the 2013 Session. CACI presented the compromise to the sponsors/proponents but were unable to reach an agreement;
- However, some improvements to the bill were reached through the help of the Governor's staff which included:
 - caps on the compensatory and punitive damages for small employers;
 - a higher standard for punitive damages of "clear & convincing evidence";
 - elimination of allowing the CO Civil Rights Division to award damages;
 - clarification that the law would not allow a plaintiff to file a claim in federal and state court for the same damages;
 - requiring state court to use federal case law in state cases unless federal law is silent on the issue.

HB 1222 Changes to Family Medical Leave Act (Sponsors: Rep. Peniston & Sen. Ulibarri)

CACI Position: **Opposed as Introduced/Neutral as Amended**

Bill Status: Passed in House & Senate - Sent to Governor on 4/25/13

- House Bill 1222 as introduced expanded the federal Family Medical Leave Act to individuals with a serious health condition who are related to an employee by blood, adoption, legal custody, marriage, or civil union. The bill also expanded the leave to individuals who lived with the employee or were in a committed relationship;
- Based on opposition to the introduced bill, CACI worked with the sponsors on amendments to improve the bill which passed as amended and included:
 - requiring the employee to submit reasonable documentation of the family relationship;
 - requiring medical certification of the health condition;
 - clarifying that the leave is only applicable for a total of 12 weeks;
 - narrowing the expanded leave to an employee's partner in a civil union or domestic partnership.

HB 1304 UI Benefits During a Lockout (Sponsors: Rep. Moreno & Sen. Guzman)

CACI Position: **Oppose**

Bill Status: Died on Senate 2nd Reading on 5/6/13

- House Bill 1304 would have allowed an employee to receive unemployment insurance benefits if a lockout had been initiated by an employer in response to strike activated by a labor organization. The bill also removed the current definitions in law of an offensive and defensive lockout, and multi-employer bargaining unit;
- CACI lobbied and testified against this bill based on the significant cost impact to the Unemployment Insurance Trust Fund. The trust fund became insolvent in 2010, and CACI and other interest groups have worked tirelessly to get the fund back to solvency;

- The Senate sponsor chose to lay the bill over until May 13th, thereby killing the bill, based on the above concerns and similar concerns by the Governor.

Energy & Environment Council

SB 03 Coal Mine Methane (Sponsors: Sen. Baumgardner & Rep. Coram)

CACI Position: **Support**

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

- Senate Bill 3 would have allowed electricity generated from the combustion of coal mine methane gas that would have otherwise escaped into the atmosphere to count towards compliance with the state renewable portfolio standard (RPS);
- Opponents argued that the bill would negatively impact the market share for Colorado's existing renewable energy providers, and additional sources for meeting the RPS should not be allowed without an accompanying increase to the mandate.

SB 21 Pipeline Rights of Way (Sponsors: Sen. Hodge and Rep. Williams)

CACI Position: **Support**

Bill Status: Died in Senate Local Government Committee on 4/30/13

- Senate Bill 21 would have clarified that pipeline companies that convey oil, gasoline, or other petroleum products may acquire rights-of-way by eminent domain. The legislation was a response to the May 2012 Colorado Supreme Court decision in the case of Larson v. Sinclair Transportation Company, which held that only pipeline companies in the business of transmitting electricity or natural gas can use the power of eminent domain in Article 5, Title 38, C.R.S., and specifically Section 38-5-105, C.R.S.;
- In response to questions raised in the bill's Senate hearings, Majority Leader Carroll requested that bill sponsors lay over SB 21 and introduce the bill with a different title, and SB 191 was introduced.

SB 63 Recycled Energy Gas from Waste (Sponsors: Sen. Grantham & Rep. Navarro)

CACI Position: **Support**

Bill Status: Died in Senate State, Veterans & Military Affairs Committee 2/13/13

- Senate Bill 63 would have added electricity produced through the combustion of synthetic gas derived from waste materials through thermal breakdown to the definition of recycled energy resource, making it an eligible energy resource for meeting Colorado's renewable portfolio standard (RPS);
- Opponents argued that the bill would negatively impact the market share for Colorado's existing renewable energy providers, and additional sources for meeting the RPS should not be allowed without an accompanying increase to the mandate.

SB 191 Pipeline Rights of Way (Sponsors: Sen. Hodge and Reps. Williams & Sonnenberg)

CACI Position: **Support**

Bill Status: Died in House Transportation & Energy Committee on 4/25/13

- Senate Bill 191 would have clarified that pipeline companies that convey oil, gasoline, or other petroleum products may acquire rights-of-way by eminent domain pursuant to Article 5, Title 38, C.R.S., and reiterated state constitutional provisions concerning just compensation for property taken by eminent domain, as well as federal pipeline safety regulations and other applicable current law;
- A "poison pill" amendment was added in House Transportation & Energy Committee, prompting sponsors to request that the Committee vote to postpone the bill indefinitely, thereby killing the bill.



SB 202 Additional Inspections of Oil & Gas Facilities (Sponsors: Sen. Jones & Rep. Singer)

CACI Position: **Opposed as Introduced/Neutral as Amended**

Bill Status: Passed in House & Senate - Sent to Governor

- As introduced, Senate Bill 202 would have required the Colorado Oil and Gas Conservation Commission to use a risk-based strategy for inspecting oil and gas locations, and to have enough inspectors to inspect each oil and gas location once per year;
- As amended, the bill requires the COGCC to report to the Joint Budget Committee and legislative committees of reference by February 1, 2014 on utilizing a risk-based strategy for inspecting oil and gas locations. The report is to include findings, recommendations, and a plan, including staffing and equipment needs for implementing the strategy by July 1, 2014.

SB 229 Criminal Omnibus (Sponsors: Sen. Guzman & Rep. Kagan)

CACI Position: **Opposed as Introduced/Neutral as Amended**

Bill Status: Passed in House & Senate – Sent to Governor

- As introduced, Senate Bill 229 included sections that would give the Attorney General the ability to prosecute criminal environmental cases without a referral from Colorado Department of Public Health and Environment (CDPHE), a major and concerning shift in environmental enforcement;
- CACI worked diligently against the problematic sections of the bill, resulting in the Senate amending the bill to remove the environmental prosecutions sections, thus alleviating CACI’s opposition.

SB 252 Renewable Energy Standards (Sponsors: Sens. Morse & Schwartz and Reps. Ferrandino & Duran)

CACI Position: **Oppose**

Bill Status: Passed in House and Senate – Sent to Governor

- As introduced, SB 252 increased the renewable energy mandate for most Colorado electric cooperative associations from 10% by 2020 to 25% by the same date. Additionally, the legislation eliminated the in-state multiplier, added new distributed generation requirements, added technologies for meeting the renewable standard, and increased the retail rate impact from 1% to 2%;
- The legislation was crafted behind closed doors, and the impacted utilities and their customers were not brought to the table until after introduction of the bill. Serious concerns about the costs of implementation were disregarded, and the only change made was to decrease the mandate from 25% down to 20%;
- CACI worked with a broad coalition of energy consumers and producers in actively opposing the bill, and sent a request to the governor for a veto of the legislation.

SB 272 Thermal Energy Mandates (Sponsors: Sen. Schwartz & Rep. Fischer)

CACI Position: **Oppose**

Bill Status: Died in Senate Ag, Natural Resources & Energy Committee on 4/23/13

- The bill, as amended through a strike below amendment offered by its sponsor, would have broadened the types of measures that may be deployed as part of a gas utility’s demand-side management (DSM) program, specifically by adding programs that improve energy productivity, consumer-sited renewable energy technologies, and other programs that reduce fossil fuel consumption;
- Additionally, the bill would have changed the criteria used to measure the cost effectiveness of a DSM program to a utility cost test that does not include participant expenditures. The legislation would have driven up costs for natural gas consumers to subsidize technologies that would not benefit the companies paying for them.



HB 1013 Protect Water Rights Ownership (Sponsors: Rep. Sonnenberg & Sen. Baumgardner)

CACI Position: **Support**

Bill Status: Died on House 2nd Reading Calendar on 5/3/13

- House Bill 1013 aimed to establish that a landowner cannot demand, as a condition of granting a right-of-way or special use permit, and a court cannot order as a condition of an eminent domain proceeding, that the owner of a water right assign to the landowner either partial or joint ownership of the water right. The bill was recommended by the Water Resources Review Committee and stemmed from a dispute between the U.S. Forest Service and Colorado ski resorts;
- Although this bill died, House Resolution 1009 was adopted which discussed the issues at the heart of the bill, and brought the topic to the attention of the Department of Natural Resources, the US Forest Service and other interest groups.

HB 1216 Incentives for Distributed Generation (Sponsor: Rep. Duran)

CACI Position: **Oppose**

Bill Status: Died in House Transportation & Energy Committee on 4/25/13

- HB 1216 directed cooperative electric associations and municipally owned utilities that are qualifying retail utilities to derive at least 0.5% of their retail electricity sales for 2016-2019, and 1% from 2020 forward, from distributed generation;
- Additionally, HB 1216 would have required cooperative electric associations and municipally owned utilities to establish standard offers to purchase renewable energy credits from wind generation, and increased the maximum customer generation capacity.

HB 1269 CO Oil & Gas Conservation Commission Changes (Sponsors: Rep. Foote & Sen. Jones)

CACI Position: **Oppose**

Bill Status: Died on Senate 2nd Reading on 5/6/13

- HB 1269 would have prohibited a newly appointed commissioner of the Colorado Oil & Gas Conservation Commission (COGCC) from being an employee, officer, or director of an oil and gas operator or service company while serving on the COGCC. The bill also redefined the term waste to exclude reduced production of oil or gas due to compliance with government regulation, and removed the requirement to foster the industry from the mission of the commission;
- CACI and a broad coalition including members of industry, chambers of commerce, business groups, agricultural interests, royalty owners, contractors, homebuilders, and others, fought against the legislation, which died when five Democrats joined Senate Republicans in opposing the bill.

HB 1273 Local Government Fees on Oil & Gas (Sponsor: Rep. Fischer & Sen. Kefalas)

CACI Position: **Oppose**

Bill Status: Died in Senate Local Government Committee on 4/30/13

- HB 1273 would have required oil and gas operators to pay a local government designee fee to the Colorado Oil and Gas Conservation Commission, to be allocated to each local government that has a registered local government designee, when applying for a permit to drill;
- Additionally, the bill would have allowed local governments to collect an impact fee or development charge when issuing a development permit to offset the costs for environmental or public health and welfare oversight on new oil and gas development, and repealed a prohibition on local governments charging a tax or fee for conducting inspections or monitoring of oil and gas operations.



HB 1316 Oil & Gas Groundwater Sampling (Sponsor: Reps. Hullinghorst & Salazar & Sen. Ulibarri)

CACI Position: **Oppose**

Bill Status: Died on Senate 2nd Reading on 5/6/13

- HB 1316 would have overturned a piece of the groundwater sampling rules recently adopted by the Colorado Oil & Gas Conservation Commission (COGCC), which went into effect on May 1, 2013. Specifically, the bill would have required the Greater Wattenberg Area to follow the same groundwater rule as the rest of the state, in spite of the COGCC conclusion that the GWA was best served by a unique requirement;
- According to the COGCC, groundwater sampling rules are "adjusted in the GWA due to the combination of energy development, agriculture, and other industrial and residential use unique to the area. In addition, the state program will exist side-by-side with a well-developed Weld County-led program that provides water well testing to any well owner requesting it."

HealthCare Council

HB 1078 Repeal Colorado Health Benefit Exchange (Sponsors: Rep. Joshi & Sen. Harvey)

CACI Position: **Oppose**

Bill Status: Died in House Health, Insurance & Environment Committee on 2/5/13

- House Bill 1078 would have repealed the Colorado Health Benefit Exchange Act. CACI opposed this bill based on its continuous support of the CO Health Benefit Exchange which was created through Senate Bill 11-200. The Exchange is scheduled to be open for business in October 2013.

HB 1115 CoverColorado (Sponsors: Rep. McCann & Sen. Steadman)

CACI Position: **Neutral as Amended**

Bill Status: Passed in House & Senate - Sent to the Governor on 5/7/13

- HB 1115 repeals the CoverColorado program. Due to the passage of federal health care reform, there is no need to continue this program for insuring "high risk" Coloradans;
- As introduced, the bill directed all funds remaining after payment or settlement of all claims and outstanding liabilities to a Colorado nonprofit foundation selected by the CoverColorado Board;
- CACI worked to successfully amend the bill to direct 25% of remaining funds, an amount roughly equivalent to the insurance carrier assessment, to funding the Colorado Health Benefit Exchange.

HB 1121 Pharmacist Substitute Biosimilar Product (Sponsors: Reps. Shaffer & Murray & Sens. Heath & Roberts)

CACI Position: **Neutral**

Bill Status: Died in Senate Health & Human Services Committee on 5/2/13

- Biologics are complex medicines manufactured from living organisms. "Biosimilars," are biologic products manufactured using different cell lines and manufacturing processes with the goal of closely mirroring the composition and treatment profile of an innovator product produced by another company;
- HB 1121 would have allowed a pharmacist to substitute a biosimilar product if the federal food and drug administration (FDA) has determined the biosimilar product to be interchangeable with a prescribed biological product for the indicated use and if the practitioner has not indicated that the prescription must be dispensed as written;
- Additionally, pharmacists making such substitutions would have been required to notify the practitioner of the substitution within three days and maintain records of the substitution for at least five years, and to communicate with the purchaser about the substituted biosimilar product when making a substitution;

- CACI's neutral position was based on the differing interests on this bill within CACI's membership.

HB 1245 Health Benefit Exchange Funding (Sponsors: Rep. McCann & Sen. Steadman)

CACI Position: **Neutral as Amended**

Bill Status: Passed in House & Senate - Sent to Governor

- HB 1245 creates two funding mechanisms to support the operations of the Colorado Health Benefit Exchange, including:
 - a fee assessed on health insurers operating in the individual and small group markets; and
 - a premium tax credit to encourage contributions to the health exchange from insurance carriers.
- At CACI's request, the bill was amended in the House Health, Insurance & Environment Committee to require that the Exchange provide its financials and business plan to the Legislative Oversight Committee annually, and that the Legislative Oversight Committee meet at least twice a year.

SCR 002 Colorado Health Care Cooperative Referendum (Sponsors: Sen. Aguilar & Rep. Ginal)

CACI Position: **Oppose**

Bill Status: Died on Senate Floor - Laid Over by Sponsor on 4/12/13

- SCR 002 would have referred a constitutional amendment to the voters to create the Colorado Health Care Cooperative, with the intent of providing access to and payments for health care services for all residents of the state. The cooperative would have been funded by a combination of new taxes on payroll and income (paid to the cooperative as premiums) and transfers of existing state and federal fund sources;
- CACI opposed the legislation, as it would have derailed two years of efforts to put a CO Health Exchange in place by rendering it obsolete. Based on lack of support for this resolution, the sponsor laid the bill over permanently, effectively killing her bill.

SJR 021 Colorado Health Care Cooperative Interim Committee (Sponsors: Sen. Aguilar & Rep. Ginal)

CACI Position: **Oppose**

Bill Status: Died in House Health, Insurance & Environment Committee on 4/25/13

- SJR 021 would have created a 16-member interim committee to study the creation of a Colorado Health Care Cooperative;
- CACI opposed the creation of an interim committee devoted to studying and making recommendations for a health care cooperative. This committee would have been competing with the Colorado Health Benefit Exchange for resources and focus, and had the intent of creating a system that is in direct conflict with the CO Health Exchange.

Labor & Employment Council

HB 1046 Employer Access Personal Info (Sponsors: Rep. Williams & Sen. Ulibarri)

CACI Position: **Opposed as Introduced/Neutral as Amended**

Bill Status: Signed by Governor on 5/1/13

- House Bill 1046 prohibits an employer from requiring an employee from disclosing their user name, password or other information used to access their personal accounts through an electronic communication device;
- CACI worked with the sponsors to clarify that the bill applied to an employee's personal device. CACI also worked with the sponsors to remove the private right of action which was replaced with an investigation and penalty process to be conducted by the CO Department of Labor & Employment.



HB 1136 Changes to CO Anti-Discrimination Act (Sponsors: Sens. Carroll/Guzman & Reps. Levy/Salazar)

CACI Position: **Oppose**

Bill Status: Signed by Governor on 5/6/13

- House Bill 1136 allows for the award of compensatory damages, punitive damages and attorney’s fees to be brought against employers of all sizes in state court for discrimination claims. The bill also allows for attorney’s fees to be awarded to the plaintiff but only allows for attorney’s fees to be awarded to employer if claim is proven to be frivolous, groundless or vexatious;
- CACI brought its members together in January 2013 to develop a compromise on the issue based on knowledge that a bill would be introduced during the 2013 Session. CACI presented the compromise to the sponsors/proponents but were unable to reach an agreement;
- Some improvements to the bill were reached through the help of the Governor’s staff which included:
 - caps on the compensatory and punitive damages for small employers;
 - a higher standard for punitive damages of “clear & convincing evidence”;
 - elimination of allowing the CO Civil Rights Division to award damages;
 - clarification that the law would not allow a plaintiff to file a claim in federal and state court for the same damages;
 - requiring state court to use federal case law in state cases unless federal law is silent on the issue.

HB 1222 Changes to Family Medical Leave Act (Sponsors: Rep. Peniston & Sen. Ulibarri)

CACI Position: **Opposed as Introduced/Neutral as Amended**

Bill Status: Passed in House & Senate - Sent to Governor on 4/25/13

- House Bill 1222 as introduced expanded the federal Family Medical Leave Act to individuals with a serious health condition who were related to an employee by blood, adoption, legal custody, marriage, or civil union. The bill also expanded the leave to individuals who lived with the employee or were in a committed relationship;
- Based on opposition to the introduced bill, CACI worked with the sponsors on amendments which were adopted and included:
 - requiring the employee to submit reasonable documentation of the family relationship;
 - requiring medical certification of the health condition;
 - clarifying that the leave is only applicable for a total of 12 weeks;
 - narrowing the expanded leave to an employee’s partner in a civil union or domestic partnership.

HB 1227 Wage Theft (Sponsors: Rep. Singer & Sen. Ulibarri)

CACI Position: **Oppose**

Bill Status: Died in House Business, Labor & Econ. Develop Committee on 3/19/13

- House Bill 1227 would have made it a crime for employers to hold back wages or benefits – currently defined as a civil violation. The bill also created an imbalance in the award of attorney’s fees favoring the plaintiff and also created classifications for the wage theft as follows:
 - a class 2 misdemeanor if the amount is less than \$500;
 - a class 1 misdemeanor if the amount is between \$500 and \$999;
 - a class 4 felony if the amount is between \$1,000 and \$19,999; or
 - a class 3 felony if the amount is \$20,000 or more.
- CACI worked for several weeks with the sponsors and proponents to try reach a compromise on the bill language but were unsuccessful. Based on lack of support by members of the House Business & Labor Committee, the sponsor chose to lay his bill over, effectively killing the bill.



HB 1304 UI Benefits During a Lockout (Sponsors: Rep. Moreno & Sen. Guzman)

CACI Position: **Oppose**

Bill Status: Died on Senate 2nd Reading on 5/6/13

- House Bill 1304 would have allowed an employee to receive unemployment insurance benefits if a lockout had been initiated by an employer in response to strike activated by a labor organization. The bill also removed the current definitions in law of an offensive and defensive lockout, and multiemployer bargaining unit;
- CACI lobbied and testified against this bill based on the significant cost impact to the Unemployment Insurance Trust Fund. The trust fund became insolvent in 2010, and CACI and other interest groups have worked tirelessly to get the fund back to solvency;
- The Senate sponsor chose to lay the bill over until May 13th, effectively killing the bill, based on the above concerns and similar concerns raised by the Governor.

SB 18 Permissible Use of Credit Information (Sponsors: Sen. Ulibarri & Rep. Fischer)

CACI Position: **Opposed as Introduced/Neutral as Amended**

Bill Status: Signed by Governor Hickenlooper on 4/19/13

- Senate Bill 18 as introduced would have restricted the ability of employers to use consumer credit information for prospective or current employees, unless the position involved a financial industry or a defense contract. The bill also allowed for a private right of action by the potential employee;
- CACI brought its members together in January 2013 to develop a compromise based on knowledge that a bill would be introduced during the 2013 Session. The Senate sponsor agreed to CACI’s amendment suggestions which expanded the types of positions for which an employer can still conduct a credit check and eliminated the private right of action provision in the bill. That provision was replaced with an investigation and penalty process to be conducted by the CO Department of Labor & Employment.

SB 25 Collective Bargaining for Firefighters (Sponsors: Sen. Tochtrop & Rep. Williams)

CACI Position: **Oppose**

Bill Status: Passed out of House & Senate – Sent to Governor

- Senate Bill 25 gives professional firefighters the ability to collectively bargain and applies to public employers, including municipalities, counties, and special districts, but not to volunteer firefighters;
- CACI has opposed this bill in previous years based on concerns for the potential of mandated collective bargaining of private employers.

SB 147 Workers Compensation Liability (Sponsors: Sen. Jahn & Rep. Gardner)

CACI Position: **Support**

Bill Status: Passed out of House & Senate – Sent to Governor

- Senate Bill 147 establishes that an employer’s workers compensation insurance is only required to cover the actual employees of the business. The bill is in response to a CO Appeals Court ruling that allows for delivery drivers delivering products to a business to be covered under that business’ workers compensation coverage if the driver is injured while making the delivery. This ruling creates the potential for any employer to be liable for the injury of an employee who works for another company.



Tax Council

HB 1009 Refunds on Overpaid Sales & Use Tax (Sponsors: Rep. DelGrosso & Sen. Jahn)

CACI Position: **Support**

Bill Status: Signed by Governor Hickenlooper on 3/22/13

- House Bill 1009 cleaned up language in statute that wasn't addressed in HB 1265 which passed in 2011 and aligned conflicting provisions in law on the amount of time that a taxpayer has to file a refund claim with the Department of Revenue;
- This bill ensured that the 3-year period for filing the claim applied in other sections of the statute as well.

HB 1059 Telecommunications Tax Exemption (Sponsor: Rep. Gerou)

CACI Position: **Support**

Bill Status: Died in House Finance Committee on 4/24/13

- House Bill 1059 would have exempted from state sales and use taxes any equipment used by a telecommunications company to provide broadband internet services in Colorado;
- This bill has been attempted in previous years, and as in the past, the fiscal impact played a large part in its defeat in the House Finance Committee.

HB 1140 Creation of a Tax Appeal Court (Sponsor: Rep. Stephens)

CACI Position: **Support**

Bill Status: Died in House Finance Committee on 3/6/13

- House Bill 1140 would have created an independent Tax Appeal Court with the intent of resolving disputes between taxpayers and the Department of Revenue. The Tax Appeal Court would have been established within the Colorado Judicial Branch and would have consisted of at least one full-time judge appointed by the Governor;
- The sponsor chose to lay the bill over, effectively killing the bill, based on concerns raised by CACI Tax Council members as well as representatives from the Judiciary Department. Concerns included the preference to have tax appeal cases continue to go through the normal district court process rather than through a new tax court.

HB 1142 Enterprise Zone Act Reforms (Sponsors: Rep. Hullinghorst & Sen. Heath)

CACI Position: **Neutral**

Bill Status: Passed out of both House & Senate - Sent to Governor

- House Bill 1142 as introduced was aligned with the work of the Enterprise Zone Task Force which was created during the 2012 session and met throughout the summer to develop recommendations for improving the Enterprise Zone Program;
- Based on the Task Force recommendations, the introduced bill included a \$1 million dollar cap on the Investment Tax Credit on a prospectively basis, as well as a provision allowing taxpayers to appeal to the Economic Development Commission for large scale projects that exceed the \$1 million cap. The bill also provided that 50% of the revenue savings from the cap would be reinvested back into the program;
- When the bill was heard in the House Finance Committee, the House sponsor was confused as to the language in the bill which capped the amount of the investment tax credit and the period of time it could be earned. Both the House and Senate sponsors attended each of the Enterprise Zone Task Force meetings throughout the summer during which this cap was discussed and recommended;



- Based on disagreement with the Task Force recommendations, the sponsors decided to amend the bill to reduce the cap to \$750,000 and allow the carry-forward period of the credit to 14 years instead of the original 12 years that is provided in current law.

HB 1143 Model Mobile Workforce Statute (Sponsor: Rep. Delgrosso)

CACI Position: **Support**

Bill Status: Died in House Finance Committee on 3/7/13

- House Bill 1143 would have exempted a nonresident who works in Colorado for up to 30 days from filing Colorado state income taxes on wage and salary income. The bill also exempted the employer from withholding and remitting state income taxes to DOR on wage and salary earned;
- The Department of Revenue provided the Multi-State Tax Commission version to the sponsor while the Council on State Taxation had their own version of this legislation they are seeking to pass in Congress. COST sought to have HB 1143 defeated or to align the language with their bill. CACI lobbied the sponsor to include the COST language in the bill which he agreed to do;
- Despite a unanimous vote in the House Finance Committee, certain House Appropriations Committee members were convinced there would be a loss of revenue to the State despite the zero fiscal impact statement on the bill. The Appropriations Committee members asked the Finance committee staff to prepare a fiscal impact statement and estimate any loss of revenue to the state;
- Based on these dynamics and the likelihood that the bill would be defeated in the House Appropriation Committee, the sponsor chose to lay his bill over, effectively killing his bill.

HB 1174 Business Personal Property Tax Exemptions for Small Businesses (Sponsors: Rep. Saine & Sen. Jahn)

CACI Position: **Support**

Bill Status: Died in House Finance Committee on 2/20/13

- House Bill 1174 would have increased the property tax exemption for business personal property to \$25,000 for property tax years 2015 and 2016 and \$50,000 for property tax years 2017 and 2018, adjusted biennially for inflation thereafter. Beginning in property tax year 2015, the bill also exempted all locally assessed business personal property that is fully depreciated;
- As occurs with most of the business personal property tax bills, this bill was defeated primarily due to the fiscal impact to the state and loss of revenue to local jurisdictions.

HB 1177 Business Personal Property Tax Qualification for Exemption (Sponsors: Rep. Holbert & Senator Scheffel)

CACI Position: **Support**

Bill Status: Died in House Finance Committee on 2/20/13

- Under current law, the property tax exemption for business personal property on a single personal property schedule is \$7,000 for property tax years 2013 and 2014, and an inflation adjusted amount every two years thereafter. If the value of the taxpayer's personal property is greater than this amount, none of the taxpayer's property is exempt;
- For these taxpayers, House Bill 1177 established an exemption from property tax equal to the first \$7,000 of actual value in tax years 2013 and 2014 and an inflation adjusted to the amount thereafter.



HB 1265 Enterprise Zone Business Facility Tax Credit (Rep. Hullinghorst & Sen. Heath)

CACI Position: **Support**

Bill Status: Sent to Governor on 4/26/13

- House Bill 1265 allows for businesses to earn the New Business Facility Tax credits that are allowed through the Colorado Enterprise Zone Program without having to go through the six steps currently required to qualify for the tax credit;
- This bill was brought by the CO Office of Economic Development and International Trade as a way to simplify the current application process for taxpayers to receive the New Business Facility Tax Credit.

HB 1287 Job Growth Incentive (Sponsors: Rep. Primavera & Sen. Scheffel)

CACI Position: **Support**

Bill Status: Passed in House and Senate – Sent to Governor on 5/8/13

- House Bill 1287 extends the Colorado job growth incentive tax credit by an additional 5 income tax years;
- Under current law, taxpayers can receive authorization for credits through tax year 2014 and may claim the credits through tax year 2018. The bill allows taxpayers to receive authorization for the credits through tax year 2019 and claim them for a period of 60 months from when the credit was first received.

HB 1288 Uniform Statewide Sales & Use Tax Base (Sponsors: Rep. Conti & Sen. Steadman)

CACI Position: **Support**

Bill Status: Passed out of House and Senate – Waiting on Final Action

- House Bill 1288 requires the Department of Revenue in collaboration with the Colorado Municipal League and CO Counties Inc., to prepare a report by December 31, 2013 to the General Assembly which would include the following:
 - identify the sales tax exemptions for each jurisdiction across the state;
 - estimate the revenue associated with each exemption;
 - determine how a uniform sales tax base can be revenue neutral for the state and local taxing jurisdictions; and
 - recommend to the General Assembly how to establish a uniform sales tax base.

Manufacturing Initiative

HB 1001 Advanced Industries Accelerator Act (Sponsors: Reps. Gerou and Young & Sens. Heath and Steadman)

CACI Position: **Support**

Bill Status: Bill passed in House & Senate - Sent to Governor

- House Bill 1001 creates the Advanced Industries Acceleration grant program, to be administered by the Office of Economic Development and International Trade. The program distributes grants to seven specified industries: advanced manufacturing, aerospace, bioscience, electronics, energy and natural resources, infrastructure engineering, and information technology;
- This program is funded using limited gaming funds that are currently credited to the Bioscience Discovery Evaluation Fund and the Income Tax Withholding Fund created under Senate Bill 11-047. Bioscience Discovery and Clean Technology Discovery grants will be awarded as part of the AIA grant program created under this bill. Thus, this bill essentially expands two existing grant programs by adding five new industries to receive grants, and new types of grants offered.



HB 1165 Creation of a Manufacturing Career Pathway for Colorado (Sponsors: Rep. Wilson & Sen. Heath)

CACI Position: **Support**

Bill Status: Bill passed in House & Senate - Sent to Governor

- House Bill 1165 requires that the State Board for Community Colleges and Occupational Education collaborate with the Department of Higher Education, the CO Department of Education, and the CO Department of Labor and Employment, to design a career pathway for students seeking employment in the manufacturing sector. The career pathway must be available for students beginning with the 2014-15 academic year. The House sponsor worked to reduce the fiscal note by over 50%, which enabled the bill’s ultimate passage;
- Several member companies of CACI’s Manufacturing Initiative testified in support of this bill and how it would be a critical vehicle for providing skilled, qualified employees for their respective organizations.

Other Bills

HB 1192 Genetically Engineered Food Labeling (Sponsor: Rep. Labuda)

CACI Position: **Oppose**

Bill Status: Died in House Committee on Health, Insurance & Environment on 2/21/13

- House Bill 1192I would have amended the Colorado Food and Drug Act to require that food sold in Colorado that contains more than 1 percent genetically engineered material, or was produced with genetically engineered material, be labeled to that effect. Genetically engineered refers to organisms and biological materials that have been altered at the molecular or cellular level by means that are not possible under natural conditions or processes;
- CACI’s Government Affairs Council took an oppose position to this bill due to its lack of specificity as to what constitutes genetically engineered material and its potential negative effects on Colorado businesses.