

2009 Legislative Session Report

CACI's Advocacy, Business Impact and Analysis
of the 2009 Colorado Legislative Session



The State Chamber of Commerce

The 2009 Legislative session played out against the backdrop of the worst economy in a generation. When the curtain went up on the 2009 legislative session, lawmakers were all singing the same tune, "Jobs, Jobs, Jobs." Unfortunately, they didn't stick to the script. Very few bills were introduced and passed that created and maintained jobs. Pressured by organized labor and social-justice advocates, legislators attacked Colorado businesses with numerous bills, including mandates on businesses, to further their particular agendas at the expense of the employer community.

PROTECTING WORKERS' COMPENSATION

Pinnacol Raid Averted - \$500 Million Saved For Business Through SB-273 legislators sought to raid \$500 million from Pinnacol to balance the state budget. CACI mobilized its members and business allies to rally at the Statehouse. More than 300 business people also responded to a CACI Grassroots Alert by contacting legislators directly. This strong lobbying effort prevented the raid.

"CACI's mobilization of its members was critical to stopping the attempted raid of \$500M from the surplus of Pinnacol Assurance, money paid by Pinnacol customers to protect their workers."

— Ken Ross, CEO, Pinnacol Assurance

Workers' Comp System Still Threatened Lawmakers then wanted to restructure Pinnacol to put it back under state control where it had failed until allowed to operate independently. CACI and its allies successfully fought to amend SB-281, which calls for an interim study of Pinnacol. CACI remains concerned that more legislation harmful to the entire workers' compensation system may surface next year.

Two Workers' Comp Funds Protected from Future Legislative Raids Passage of SB-37 with strong CACI support was very good news for the business community. Past legislative raids on two workers' comp funds have meant businesses paid three times more than the cost of workers' injury claims. SB-37 changes the way businesses pay into these accounts and how the funds are spent, which should save businesses \$10 million in 2010-2011.

FIGHTING HEALTH CARE MANDATES

Several bills introduced this session concerned expanded health care mandates which increased the cost to employers who provide coverage for their workers.

Stopping an Outrageous Expansion of Employer Health Care Coverage CACI opposed SB-159, which would have required health insurers to cover a worker's unmarried

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Here's w

Legislation	Proposed Legislation—Impact on Business 2009	CACI "Key Vote"	BUSINESS ISSUES					
			Labor and Employment	Taxation	Health Care	Energy / Environmental	General Business	Access to Services
HB 1001	Creates a new income tax credit for employers to incentivize job growth.							
HB 1057	Requires employers to provide leave to workers to attend academic activities of their child.	✓	▲					▲
HB 1117	Would have eliminated benefits for executives of publicly traded companies if the company was "undercapitalized."		▲					▲
HB 1170	Would have given Unemployment Insurance benefits paid by employers to workers who are not truly unemployed during a labor dispute.	✓	▲					▲
HB 1208	Would have created a costly mandate on employers to pay a certain amount of wages and benefits to workers on construction projects.	✓	▲					▲
HB 1210	Would have created a costly mandate on employers to provide specific amounts of sick leave based on size of the business.	✓	▲					▲
HB 1273	Would have created a state-run health care authority charged with establishing a new health care system that would have eliminated CO jobs and limit treatment and affordability.	✓			▲			
HB 1310	Applies penalties to employers who willfully misclassify employees as independent contractors.		▲					▲
HB 1344	Would have increased costs for patients and limit access to rural doctors who cannot afford an increase in malpractice insurance.	✓			▲			
SB 37	Bill ensures that surcharges paid by employers into Workers' Comp funds are not continually raided to balance the State's budget.	✓						▲
SB 85	Would have provided a 40-year phase-out of the onerous Business Personal Property Tax mandated on CO businesses.	✓		▲				
SB 159	Would have created a mandate on employers to provide insurance coverage to workers who have an unmarried adult child up to age of 30.				▲			
SB 208	Allowed the Legislature to "transfer" \$111.7 million in designated business funds to the General Fund, and requiring continuing payments from business.			▲				▲
SB 273	Would have raided \$500 million from Pinnacol Assurance paid by policyholders which would have raised rates and reduced service quality.	✓						▲
SB 281	Would have restructured Pinnacol Assurance' board and operations which would have affected policyholders' rates and service quality.	✓	▲					▲

dependent children up to age 30 from age 25, and the bill was defeated.

"I asked our employees if it is OK for government to require business to provide the opportunity for able-bodied "dependents" up to the age of 30 to be covered under their parents insurance (SB 159). Unanimously they said "No!" Employees understand that government mandated benefits result in a decrease in their wages. I was pleased, on behalf of the welfare of our employees, to work closely with CACI to kill that bill!"

— Jim Helgoth, President Elward Construction Co.

Shelving the Sick-Leave Bill Legislators made an effort to force employers to change current paid sick leave policies and allowed employees to carry over the leave to the following year. The bill died after CACI argued it would be a costly, intrusive mandate.

Autism Bill Costly and Risky CACI recognizes the many challenges facing parents with autistic children. SB-244, which became law, expands benefits for children with autism but places a \$37 million burden on private employers and workers to pay for the coverage.

CACI objected to the hypocrisy of the bill's proponents, who argued that the state could not afford the additional cost and exempted most state government employees, Medicaid recipients and children insured under a state-federal program.

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INDUSTRY IMPACT														RESULTS	
Airports / Defense	Agriculture	Banking/Financial	Biotech	Building & Construction	Business Services	Energy and Mining	Health Care	Insurance	Manufacturing	Real Estate	Retail / Tourism	Transportation			
▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	PASSED	— CACI lobbied in support of the bill which successfully passed.
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CACI believes that mandates like SB-244 mean that fewer employers will be able to afford health-care coverage for their workers and will lead to fewer covered employees. CACI asked Governor Bill Ritter, Jr., to veto the bill, but he signed it. Going forward, CACI anticipates that advocates for other diseases/syndromes will ask for similar benefits.

Defeating (Again) Efforts to Increase Med-Mal Insurance Costs
 For the second year in a row, the Colorado Trial Lawyers Association sought to increase the cap on damages for pain and suffering in medical malpractice cases. CACI worked with a broad coalition of business groups and specialized medical organizations to defeat the bill, which would have increased health-insurance premiums and adversely affected medical specialists and doctors in rural areas.

Blocking a Colorado Single-Payer, Health-Insurance System
 Also going down to defeat was a bill, opposed by CACI, to lay the foundation for a single-payer, health-insurance system for Colorado. CACI favors incentives for individuals to obtain, and employers to provide, affordable health-care insurance as well as competition among providers.

CACI WORKS TO BLOCK UNION BILLS

Organized labor at both the state and federal levels once again pressed lawmakers for laws to help them succeed where their ability to attract and serve members has failed. CACI and its business allies effectively opposed several labor-supported measures.

Going National on "Employee Free Choice" Act A federal labor initiative proving very contentious in Congress is the Employee Free Choice Act, also called the "card check" bill. Among other provisions, the measure would aid union organizing efforts by eliminating the secret ballot and mandating arbitration. CACI joined the fight by partnering with the U.S. Chamber to organize a delegation of business leaders to fly to Washington for meetings with U.S. Senators Mark Udall and Michael Bennet, as well as three Colorado members of the U.S. House of Representatives. Because Senator Bennet's vote is expected to be critical to the outcome of the issue, CACI's leadership to bring business constituents to his doorstep was pivotal on the national level.

"CACI has been particularly effective in bringing concerns about the so-called Employee Free Choice Act to the attention of Senators Udall and Bennet, key votes in the debate. It's clear that CACI members have played no small role in persuading Colorado's Senators not to endorse this legislation."

— Glenn Spencer, Executive Director,
 Workforce Freedom Initiative, U.S. Chamber of Commerce

Labor Dispute Bill Vetoed HB-1170 would have granted unemployment benefits to workers "locked out" in a labor dispute initiated by the union. The legislature passed this bill, upsetting the current fair balance between labor and management. CACI and its business allies successfully mounted a strong appeal to Governor Ritter, who vetoed the bill.

Reducing the Burden of the Parental-Leave Bill Lawmakers passed HB-1057 granting leave for parents to attend their child's school activities such as parent-teacher conferences and disciplinary meetings. CACI and other business groups supported amendments that reduced the administrative burden on employers and limited the types of activities that parents can attend during work hours.

Amending Employee Misclassification Penalties Employers will face new penalties for misclassifying workers as independent contractors now that the Governor has signed HB-1310. A CACI-advocated amendment allows employers to seek out guidance from the Department of Labor & Employment to ensure that they are properly classifying their employees and to avoid being penalized.

Killing the Prevailing-Wage Bill A bill to mandate that contractors pay prevailing wage on state transportation projects died in its first committee after CACI and other business organizations argued that it would increase construction costs to taxpayers.

2010 SESSION ALERT - AGAIN BALANCING THE BUDGET ON THE BACKS OF BUSINESSES?

The 2010 legislative session may increase costs for businesses in Colorado, perhaps resulting in job losses. Legislators are reportedly considering the elimination of more than \$150 million in tax exemptions that businesses depend on for their survival. CACI is closely monitoring the legislature's response to a Colorado Supreme Court ruling earlier this year that legislators believe they can rely on to take away tax exemptions without a vote of the people. The constitutional Taxpayers' Bill of Rights (TABOR) requires citizen approval of tax increases. The Court ruling, however, distinguishes between raising taxes and removing tax exemptions. CACI will remain vigilant to protect businesses from any tax increases that the legislature may attempt under the umbrella of the Court opinion.

PROMOTING JOBS

Tax Credits for New Jobs The legislature passed a jobs-creation bill with CACI's strong support. HB-1001 provides tax credits for firms that create new jobs. The business must show that it would not have created the new jobs without this law.

Ending the Business Personal Property Tax CACI continued to strongly advocate elimination of the business personal property tax – a tax that discourages investment in plant and equipment that helps companies grow and compete. There was bipartisan support by some legislators to phase-out the tax over 40 years, but counties were concerned about replacing the funding. HB-85 calls for an interim study for which CACI recommended participants. CACI is pulling together its coalition of companies to provide thoughts and goals to the task force.

BALANCING THE ENVIRONMENT AND BUSINESS INTERESTS

Fighting to Keep Appropriate Oversight of Oil and Gas Industry HB-1255 would have changed the Division of Wildlife's expanded role of regulatory control. The Colorado Oil and Gas Commission, not the Division of Wildlife, should be responsible for oversight of applicable rules and regulations and HB-1255 would have ensured this. CACI and many of CACI's oil and gas members lobbied and testified in support of this bill. Despite those efforts, the bill was defeated. CACI remains committed to helping the oil and gas industry negotiate for rules that are environmentally responsible and allow those companies to continue investing and producing in Colorado.

Saying "No" to Creating New Local Government Fees CACI strongly and successfully opposed HB-1259 that would have expanded local governments' abilities to charge impact fees on new development. The bill was defeated.

BALANCING THE STATE BUDGET

Faced with seriously declining revenues, lawmakers often looked to business to balance the state general fund.

Raiding Business Funds CACI fought hard to prevent the passage of SB-208 but the Legislature saw \$111.7 million paid by business in legislatively required funds, and took it. CACI fought to require the funds be repaid when state revenues increase, but a majority of Legislators voted "No" to repayment. Businesses must now continue to pay into those funds until replenished. With SB 37, CACI successfully

advocated to limit one of these funds so that less could be raided in the future.

Stemming Losses for Retailers SB-275 eliminates the allowance that vendors receive for collecting and remitting the state sales tax until July 2011. CACI strongly opposed cutting the retail allowance and then when it was clear that the legislation would pass, CACI partnered with the Colorado Retail Council to restore the allowance six months sooner than the date originally in the bill.

Loosening Budget-Spending Caps The legislature fundamentally changed the budgeting rules with SB-228, which eliminates the 6% cap on increased general fund spending. Under the old statute, if revenues exceeded 6%, those funds would be dedicated to transportation, higher education and capital construction projects. SB-228 as signed into law limits growth to 5% of the state's personal income annually. CACI opposed the bill because of its potentially negative impact on funding for transportation, higher education and capital construction which are important investments in Colorado's long-term prosperity.

SUCCESS THROUGH LEADERSHIP

CACI's successes are plain to see and our impact measurable. Preventing the \$500 million raid on Pinnacol is a direct savings to businesses, equal to \$333 per covered worker. SB-37 produces another \$10 million in workers' comp insurance premium savings. In addition to these direct savings, CACI's 2009 efforts limited costly mandates on employers. Helping control the cost of doing business in Colorado is one of the many ways CACI fulfills its mission to champion a healthy business climate.

We couldn't have done it alone. CACI brought together diverse groups ranging from medical associations to local governments to other business groups to speak with a unified voice on legislation. And our members played an enormous role, testifying on bills, appearing at rallies and contacting legislators nearly 500 times.

As the State Chamber of Commerce, CACI gives voice to businesses at the Statehouse, advocating a stronger Colorado economy for all employers. Times have been hard. Recovery depends on a strong, unified business community. Join us.

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