

No Favors to Business Community

By CAR lobbyist Jeremy Cottrell

A disturbing trend has emerged two thirds of the way into the 2007 legislative session. Despite the "Colorado Promise," hailed as a pro-business platform to solidify and expand Colorado as a national and international business mecca, it seems as though businesses of all sizes have been targeted.

A pattern of bills challenging well established business law have been proposed or passed with little dissent among the Democratic majority.

The idea of encouraging business formation and concurrently adopting legislation undermining its effective operations are diametrically opposed. Drawing attention to Colorado as an eager host for new and established businesses while aggressively constructing a barrier to conduct business is an impossible co-existence.

The most prominent bill was HB 1072-effectively eliminating the second vote requirement regarding union organization, sailed through both houses despite a substantial organization and opposition by business leaders and chambers of commerce from every corner of the state. Much to the surprise and delight of the business community Gov. Ritter vetoed the bill when it reached his desk.

HB 1176 seeks to broaden employee physician choice but in doing so also raises the cost of an already problematic insurance program. Currently a fair amount of options exist for employees seeking to choose a physician of their choice. However, over expansion of a process that already affords an effective election of physicians will further drive up insurance premiums for both employees and employers.

In conjunction to insurance cost increases is HB 1008, which effectively shifts the burden of proof from the movant to the employer. Known as the "Firefighter Cancer Bill" the law assumes that cancer contracted by Firefighters is a direct result of workplace conditions. It is up to the employer to prove otherwise. It is very easy to see how this theory may be applied to a variety of other occupations. While noble in cause, it is dangerous to allow this sort of precedent by automatically placing liability on employers for well recognized occupational conditions.

Increasing home costs and home insurance was adversely affected by HB 1338. This "Homebuilders Bill" seeks to negate the customary practice of allowing a vendor to "cure" before claiming a breach and filing a suit. The bill empowers homeowners to sue homebuilders for a wide variety of building related issues without any notification or opportunity for the homebuilder to repair the defective issue.

Most recently, SB 117 goes against the traditional idea of a loser paying the prevailing party's attorneys' costs in an employee versus employer setting. Currently, one powerful deterrent to bringing a lawsuit is the possibility that the loser incurs not only his costs but also that of his opponent. In this setting, an employee has little downside in filing a lawsuit against an employer since he bears no risk of increased financial liability.

Lastly, the trend toward "recapture of industry dominated boards" has been made apparent with the decimation of the Oil and Gas Commission. By tipping the balance of domination on the board from industry to public it removes the expertise and efficient representation of one of Colorado's largest job producers and largest tax revenue bases. Discouraging the efficient exploration and transportation of energy will result in a domino effect of cost increases and tax decreases for the state.

Ushering a new era of Colorado business by hamstringing its ability to succeed doesn't seem to be smiling favorably on the future of economic prosperity. Thus far business friendly legislation is scarce. Laws increasing medical insurance coverage, home building costs, home insurance costs, increasing employment litigation, increased energy costs, and decreasing major streams of tax revenue to other states would seem to be an ironic twist to fostering the Colorado promise.