



## 2018 LEGISLATIVE SESSION - GENERAL OVERVIEW REPORT

**DATE:** May 23, 2018

**TO:** Colorado Women's Bar Association

**FROM:** Sara Odendahl & Kachina Weaver

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### 2018 Highlights

- Monitored and engaged in 23 bills throughout session
  - Testified on 14 bills throughout the session
- Authored signature legislation "Equal Pay for Equal Work Act"
  - Formed successful coalitions to support signature legislation
- Organized and hosted successful summer fundraiser featuring inspirational panel of speakers
  - Hosted 13 legislators at annual Public Policy Breakfast
  - Trained members at pre-session Legislative 101 seminar and webcast
- Participated in Legislative Superheroes panel discussion at annual CWBA Convention

The 2018 legislative session brought Colorado lawmakers an avalanche of bills to consider – 721 by the time the clock ran out. That's the highest total in at least a decade and probably longer. And 57 of those bills were introduced in the final 20 calendar days of the session. A little under 40% of bills were killed, a fairly standard amount.

Legislators started the 2018 legislative session with larger spending ability than they had in many years and a short list of challenging issues. One hundred and twenty days later they went home having passed one of the most generous budgets in years. They also made a \$225 million down payment on strengthening the state pension system, set aside \$500 million for transportation projects, and gave schools \$180 million more than the school-funding formula requires.

But, given split partisan control of the legislature, lobbying pressures and the ingrained legislative habit of procrastination, the deals on pensions and transportation didn't get done until the last two days of the session. The final votes on the pension rescue were tallied with less than an hour to go on May 9, the last day.

Also accomplished in the waning hours was a compromise that renewed the Colorado Civil Rights Commission, which was set to expire under the state's sunset law. However, agreement eluded lawmakers on one hot-button issue that surfaced late in the session – creation of procedures for confiscating guns from the mentally ill.

Among other top issues this session were the opioid addiction crisis and teacher shortages. Work on packages of bills started before the session convened in January, and several bills were passed, and some funding was provided. But most observers agree that neither set of bills will move the needle dramatically on either issue.

### CWBA PRIORITY LEGISLATION

The Public Policy Committee had a very active year engaging in 23 unique bills through the course of the 120-day session. Issues spanned the gamut from legacy issues such as pay equity and human trafficking prevention to domestic violence and anti-discrimination policies. CWBA made its mark via strong coalition partnerships, proactive engagement in priority issues and thoughtful legal analysis. A link to the full bill matrix is [here](#), and an overview of priority issues follows.

### **HB 18-1378: Equal Pay for Equal Work Act**

**Sponsors:** Reps. Danielson & Buckner and Sens. Donovan and Fields

**Bill Summary:** The bill modifies the policies related to gender-based pay discrimination in Colorado. It creates new standards for employers and requires the Colorado Department of Labor and Employment to enforce these standards. It also creates a civil action for employees.

**Status:** Postponed indefinitely in Senate State Affairs Committee, 5/4

**CWBA Engagement:** As the author of the bill, CWBA members were intimately involved in the drafting, coalition development and advocacy for the bill. CWBA members testified twice on the bill, and completed countless emails and calls urging legislators to vote yes. Further work remains and CWBA members and the lobby team plan to meet over the summer to further develop a broad and diverse coalition to support the bill in 2019.

### **HB 18-1377: Salary History Disclosures**

**Sponsors:** Reps. Coleman & Pettersen and Sens. Moreno & Donovan

**Bill Summary:** The bill makes it a discriminatory or unfair employment practice for an employer to seek salary history information except in certain circumstances

**Status:** Postponed indefinitely in Senate State Affairs Committee, 5/2

**CWBA Engagement:** CWBA supported the bill and provided testimony in both chambers. Looking ahead members felt that the bill concept should have been wrapped into the comprehensive Equal Pay for Equal Work legislation and will advocate for inclusion in 2019.

### **HB 18-1001: Family Medical Leave Insurance Program**

**Sponsors:** Reps. Winter & Gray and Sens. Donovan & Fields

**Bill Summary:** The bill creates a paid family leave program as an enterprise and a Type 2 Transfer under the Colorado Department of Labor and Employment. Colorado employees will pay a monthly premium on their wages collected by employers through a payroll deduction. The premium funds a family medical leave benefit that may be taken concurrently with federal family leave. Eligible employees may collect a benefit for up to 12 weeks to care for a family member or designated person.

**Status:** Postponed indefinitely in Senate State Affairs Committee, 4/30

**CWBA Engagement:** CWBA supported the bill and provided testimony in both chambers. There was significant social media support for the bill, which CWBA engaged in as well. Looking ahead the issue remains a priority for CWBA and the outcome of the 2018 election will likely determine a path forward in the future.

### **HB 18-1256: Colorado Civil Rights Divisions Reauthorization**

**Sponsors:** Reps. Duran & Herod and Sen. Gardner

**Bill Summary:** The bill continues the state's Civil Rights Division and Civil Rights Commission in the Department of Regulatory Agencies, which are scheduled to repeal on July 1, 2018. The Commission continues with seven members appointed by the Governor and confirmed by the Senate. The composition changes to include two business members, two state/local government members and three at-large members. Additionally, no more than six members may belong to a major political party and no more than three to each (Republican vs. Democrat)

**Status:** Signed by Governor Hickenlooper, 5/22

**CWBA Engagement:** CWBA supported the bill and provided testimony in both chambers. There was a very active CCRD coalition and CWBA participated in meetings, calls to action and social media promotion. The bill went down to the wire on the last day of session and ultimately a compromise between the Senate and the House was reached to continue the Division and the Civil Rights Commission, which was under scrutiny for most of the session.

Here's more detail on key issues from 2018:

#### **Transportation Infrastructure**

Lawmakers have been wrestling with this issue for several sessions. Highway officials put the cost of necessary improvements at \$9 billion over the next decade. The two parties have long disagreed on how to pay for all that.

- Republicans believe some existing state revenues can be diverted for transportation, including enough money to pay off long-term bonds.
- Democrats fear that earmarking revenues for roads would squeeze budgets for schools and other programs during future economic downturns. They've supported asking voters for a transportation tax increase.

In the end, [SB 18-001](#) almost \$3 billion in transportation over the next two decades, including \$645 million of transfers from the state General Fund over the next two years. If voters approve a \$2.3 billion bonding plan in 2019, \$122.6 million a year would be taken from the General Funder to help repay the bonds. The 2019 vote wouldn't take place if the Denver Metro Chamber of Commerce puts a transportation measure on the 2018 ballot and it passes.

### **PERA Shore Up**

The 2010 legislative session approved a major fix intended to improve the long-term financial health of the Public Employees Retirement Association. But the lingering effects of the 2008 recession and changing demographics put the pension system in another hole, with an unfunded liability estimated at \$32 billion.

As with transportation, almost everybody agreed something had to be done. But the conflicting interests of state employees, teachers, retirees and employers like the state and school districts made it hard to find compromise.

Backroom negotiations consumed the session's last day, and the [SB 18-200](#) compromise wasn't finalized until the session's final two hours. It passed both chambers, although Gov. John Hickenlooper had to coax Democrats to support the plan during a hastily called caucus. The Colorado Education Association opposed the plan, and most of the "no" votes were Democrats.

The bill increases employee contributions by 2 percentage points. Employers, like the state and school districts, also will pay more. Annual cost of living increases would be pared to 1.5% for retirees, and the retirement age would be raised to 64 from 60 for state employees and from 58 for teachers. State workers will be offered a defined-contribution option, but not teachers.

### **Schools Get A Welcome Boost**

Colorado school districts will see their biggest funding increase in years thanks to the 2018 legislative session. Total program funding, the amount of state and local revenues allocated for basic school operating costs, is projected to be \$7.08 billion in 2018-19, a \$460.9 million increase over the \$6.62 billion figure for the current, 2017-18 budget.

This includes a \$150 million reduction in the Budget Stabilization Factor – the term lawmakers use for what used to be called the Negative Factor. That would bring this down to \$672 million in 2018-19. The funding plan translates to an average per-pupil figure of \$8,137, a \$475 increase over the current year.

Other school spending increases include \$30 million for rural districts and \$35 million for school security.

### **Sexual Harassment Issue Overshadows Session**

Sexual harassment allegations that surfaced six months ago cast a shadow over the session, led to the expulsion of one-member, mild punishment for another and a lot of unfinished business.

Democratic Rep. Steve Lebsock of Thornton was expelled in March after an emotionally charged daylong House session. Multiple women accused him of harassment, including a fellow representative. GOP Sen. Randy Baumgardener of Hot Sulphur Springs was stripped of committee chairmanships and then committee memberships because of accusation involved legislative staff. No action was taken against two other Republican senators who faced less serious allegations.

A late-session report by an outside consultant found an unhealthy culture of harassment at the Capitol. Legislative leaders have set up a between-sessions study to consider next steps.

### **Saving the Civil Rights Commission**

The Colorado Civil Rights Commission got caught in a culture-war clash between Democrats and Republicans just when the agency was up for review and renewal under the state's sunset law.

Republicans were mad because of an earlier Commission ruling against a Lakewood baker who declined to make a wedding cake for a gay couple because of his religious beliefs. This case now is pending before the U.S. Supreme Court. Democrats argued that tinkering with the Commission structure or powers would weaken the agency's service to minorities.

The fight boiled down to the membership of the Commission. The compromise retains the governor's power to appoint members but specifies it must include three Democrats, three Republicans and one unaffiliated member.

### **Facing the Opioid Epidemic**

Last year a legislative study committee held extensive hearings on opioid abuse and developed a package of bills intended to limit prescribing of the pain killers, provide more treatment for abusers and increase the availability of special drugs used to counteract opioids.

Most of the package passed, but observers generally agreed the impact may be limited. For example, the bill intended to limit how many opioid pills doctors can prescribe contains lots of exceptions. And a bill that would have allowed opening of a safe drug injection center in Denver died.

### **Another Beer Brawl**

Any bill that attempts to tinker with Colorado's complicated and antiquated liquor laws leads to big fights and a high failure rate. This session wasn't supposed to be a battleground year for booze.

But a late breaking measure, [SB 18-243](#), proposed to change some of the details of the already-scheduled rollout of full-strength beer sales at convenience and grocery stores. That ignited a big brawl in the House and House-Senate disagreements that had to go to a conference committee late in the afternoon of the last day. The bill sets distance setbacks between convenience and liquor stores, specifies minimum ages for clerks and delivery people and sets other limits on grocery stores.

### **Guns and the Mentally Ill**

The session saw a familiar assortment of guns bills (most from Republicans) that all quietly died. There was a flurry of controversy and news coverage at session's end over [HB 18-1436](#), which would have created procedures for confiscating firearms for people deemed a threat to themselves or others. There have been similar "red flag" bills in other states following the Florida school shooting. The bill passed the House after emotional debate but was killed in a Senate committee.

### **Cultivating the Marijuana Laws**

Since marijuana was legalized, managing the growing body of marijuana laws has become annual chore for lawmakers. This session was no exception. Lawmakers passed bills to loosen some current restrictions on ownership of marijuana businesses and to allow "sampling" of non-smokable products at dispensaries. But efforts to allow marijuana clubs, permit home delivery of marijuana and allow dispensaries to sell snacks failed.

### **And, A Lot More**

Lawmakers managed to reauthorize the Governor's Energy Office - formerly a partisan football like the Civil Rights Commission this year; provide funds to expand broadband access in rural areas; make some reforms to

the child welfare system; and, work on the state’s backlog of defendants whose mental competency needs to be evaluated or restored.

Lawmakers also fought a lot with corrections officials about prison capacity and use of alternatives to incarceration. Not a lot was accomplished; look for this issue to come back in 2019.

As usual, partisan and ideological “statement” bills didn’t fare well. Those included Republican measures on issues like LGBTQ rights and abortion and Democratic bills on topics like regulation of drilling and economic security.

### **Passing from the Scene**

Term limits and people running for other offices will mean lots of turnover in the legislature – about 25% in both chambers.

The top legislative leaders, Senate President Kevin Grantham and House Speaker Crisanta Duran, are both term limited and will be gone in 2019. Also departing are the two most knowledgeable members of the Joint Budget Committee, Rep. Millie Hamner and Sen. Kent Lambert.

Stay tuned for more in-depth information from Aponte & Busam on the upcoming election season.

## **FY 17/18 BUDGET OVERVIEW**

Colorado lawmakers had the opportunity this year to spend lots of money, something they haven’t been able to do in some recent sessions. This allowed for extra funding to K-12 education, transportation projects, and the state pension system; while at the same time, enhance spending on some continuing state programs. These include - a \$150 million buy-down of the Budget Stabilization Factor, \$495 million investment in transportation infrastructure, and a lump sum of \$225 million to stabilize PERA.

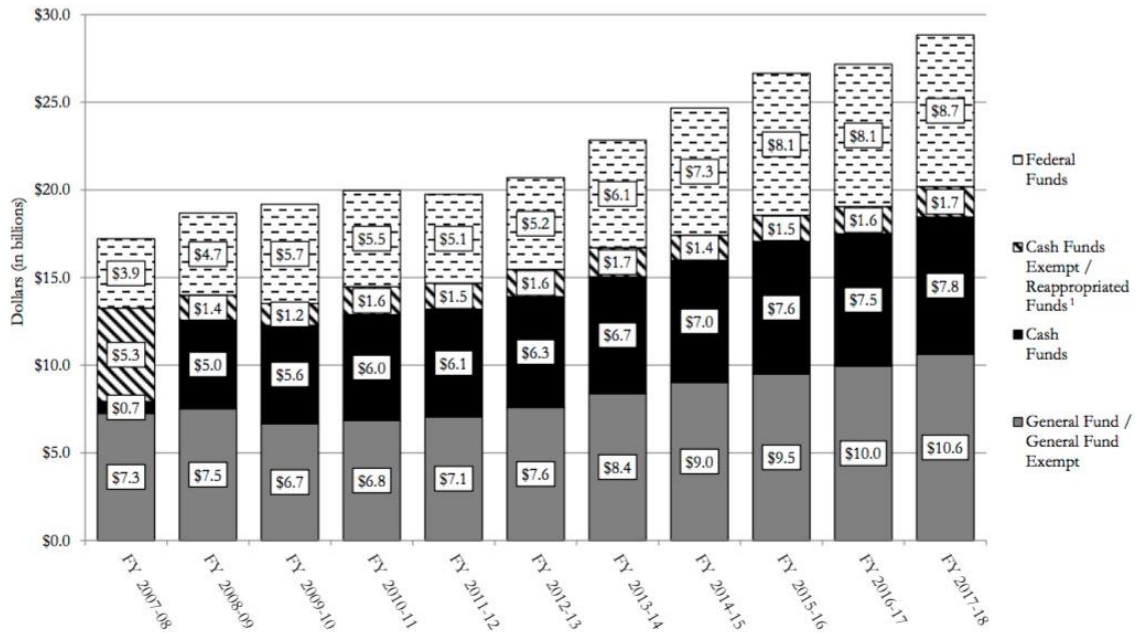
The expanded spending was made possible by strong state revenue growth and changes in federal tax law that had the effect of increasing state tax collections. Last year’s Hospital Provider Fee bill ([SB 17-267](#)) also had a significant impact on revenues, having removed this fee from calculation of the state revenue cap. This contributed to the ability to fund priorities rather than return it to taxpayers as TABOR refunds.

Even with these additional dollars, state spending increases maintained a similar trajectory that began in 2013-14.

- FY 2017-18: Long Bill and legislative appropriation, plus spending in other bills totaled about **\$28.8 billion**, a **6.1% increase** over FY 2016-17.
- FY 2018-19: Comparable total spending is projected at about **\$30.4 billion**, an **increase of 5.9%** from FY 2017-18.

This chart from the JBC’s 2017-18 Appropriations Report illustrates spending trends over a longer term:

OPERATING BUDGET FISCAL YEARS 2007-08 THROUGH 2017-18



The 2018-19 Long Bill ([HB 18-1322](#)) provides a substantial amount of money devoted to raises for state employees and rate increases for private entities that the state reimburses for services provided. The budget includes a 3% across-the-board raise for state employees with a cost of \$59.7 million all funds, \$33.2 million General Funds. It also includes provider rate increases totaling \$99.8 million all funds, including overall provider rates of 1% and various targeted rate increases. In addition, lawmakers increased the state reserve from 6.5% to 7.25%.

**Spending by Select Agencies**

- **Health Care Policy & Financing** - \$10.1 billion all funds, a 2.5% increase. General fund spending \$2.9 billion. \$6.1 million for durable medical equipment, \$6.4 million all funds for rate increase for home health and personal care
- **Department of Higher Education** - \$4.6 billion all funds, a 6.2%. General fund \$999 million, up 11.7%. Growth in state support for governing boards is sufficient to limit resident tuition increases to no more than 3 percent. An additional \$18 million is being allocated to institutions to further the goals of the higher education master plan ([SB 18-262](#)).
- **Department of Human Services** - \$2.1 billion all funds, up 4.9%. \$972 million GF, up 9.4%. Increases of note include \$18.4 million for allocation and funding reforms in the child welfare system ([SB 18-254](#)) and \$7.9 million for competency evaluations and services (various bills). \$9.4 million for direct care staff raises at the mental health institutes
- **Department of Public Health & Environment** - \$581 million all funds, up .2%, \$50.6 million GF, up 3.8%.

**A LOOK AHEAD: INTERIM COMMITTEES**

<b>2018 INTERIM COMMITTEES</b> <i>(hyperlinked)</i>	<b>POLICY FOCUS</b>
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<a href="#"><u>Alternatives to the Gallagher Amendment</u></a>	Conduct a thorough review and examination of the Gallagher Amendment, its impact statewide, and any potential modifications or alternatives.
<a href="#"><u>K-12 School Start Times</u></a>	Examine the health benefits of, barriers to, and best practices around later school start times.
<a href="#"><u>Evaluate the 2018 Legislative Workplace Study</u></a>	Evaluate the findings and recommendations from the 2018 Legislative Workplace Study and make recommendations to the Executive Committee regarding any changes to the Legislative workplace harassment policy.