

TO: Justin Sasso  
FROM: Greg Romberg  
SUBJECT: 2015 Legislative Report  
DATE: May 7, 2015

The Colorado General Assembly adjourned yesterday after a session that was highlighted by the gridlock that occurs with split control of the legislature, but with some notable bi-partisan successes.

Among the bills that passed the House and failed in the Senate were family leave, increased minimum wage, affordable housing, changes in utility regulations, scholarships for pre-school teachers, elder abuse and allowing collection of water in rain barrels. Conversely, the Senate passed bills to scale back renewable energy standards, repeal gun control measures, loosen reporting requirements in issue elections, allow parents more latitude to reject governmental requirements, repeal civil rights enforcement, exercise more control of the health benefit exchange, take over federal responsibilities for land and water and penalize communities that limit fracking that died in House committees.

The reality of a legislature where Republicans control the Senate 18-17 and Democrats rule the House 34-31 is that neither party will be able to pass measures that are overly partisan or divisive.

And while a major story line of the session has to be the discord and ability of each party to block each other's partisan priorities, it would be a mistake to suggest that nothing could be accomplished. After years of trying, the legislature found the money to pass a felony DUI bill. Additionally, bi-partisan packages of bills to address work force development and police accountability were passed and an urban renewal bill that allows counties, school districts and special districts input on how their tax revenues will be used won legislative approval. The legislature also referred a measure to allow the state to keep \$58 million of marijuana tax revenues to voters in November. Perhaps most impressively, legislation to reduce the number of state mandated assessments for K-12 students was crafted and passed in the waning days of the session.

Competing versions of bills to address the TABOR surplus failed and the default provision for earned income tax credits and relatively small refunds to taxpayers will come into play. The failure of construction defects legislation that was intended to jump start moderately priced multi-family housing will likely see the issue shift to local venues.

Highlights for the Colorado Broadcasters Association in 2015 included passage of HB 1137 to streamline and simplify acquisition of mug shots from law enforcement agencies, defeat of HB 1115 after it was amended to make it a criminal offense to photograph or record someone without their consent when there is a reasonable expectation of privacy, removing a provision in HB 1131 that would have allowed the Division of Youth Corrections to charge for its actual costs to redact information from reports and passage of HB 1290 to prohibit law enforcement agencies from stopping lawful recording of their

activities.

**House Bill 1137 – Request for Multiple Booking Photographs.** In 2014, legislation was passed to address a concern that businesses were formed for the sole purpose of placing booking photographs onto private websites to require people to pay to have their picture removed. That legislation made the practice illegal and required people requesting mug shots to affirm that they would not violate the law when requesting the photographs. The new law disrupted prior arrangements between media organizations and law enforcement agencies that regularly request mug shots. CBA supported HB 1137, sponsored by Representative KC Becker and Senator John Cooke, which allows the affirmation be made annually instead of with each request. The bill passed the General Assembly and was signed into law by Governor John Hickenlooper.

**House Bill 1115 – Privacy by Use of Emerging Technologies.** CBA participated in meetings during the fall of 2014 concerning privacy concerns by use of drones. As introduced, HB 1115, which was sponsored by Representative Polly Lawrence and Senators Kevin Lundberg and Linda Newell, did not cause problems, but it was amended in the House to make it a class 3 misdemeanor to make any photograph or audio recording of a person without consent when there was a reasonable expectation of privacy. CBA opposed the amended version and worked with the Senate sponsors to eliminate the criminal offense. Ultimately, the Senate sponsors concluded that the bill could not be fixed and killed the bill.

**House Bill 1131 – Release Critical Incident Information.** HB 1131, by Representatives Daneya Esgar and Pete Lee and Senator Kent Lambert, was introduced to address a problem of the Division of Youth Corrections (DYC) not releasing critical incident information. CBA supported the bill, but after the bill was amended to be allow DYC to charge its actual costs to redact information, CBA objected as current law limits redaction charges to no more than \$30 per hour with the first hour being free. CBA successfully worked with the sponsors to amend the bill to limit DYC to charge no more than is allowed under the Open Records Act.

**House Bill 1290 – Stop Police Interference of Recordings.** CBA supported HB 1290, sponsored by Representatives Joe Salazar and Daneya Esgar and Senators Lucia Guzman and David Balmer. The bill prohibits police officers from interfering with people who lawfully record police activities. The bill passed the General Assembly and awaits action by the Governor.

In addition to the highlighted bills above, CBA was involved with a variety of other bills that were of interest to members of the Colorado Broadcasters Association.

SB 59. Newell. Concerning Unmanned Aerial Vehicles. The bill limits governmental uses of drones and codifies federal standards for private users. CBA Position: Seek amendment to remove federal standards. STATUS: Amended as requested by CBA and postponed indefinitely by Senate Judiciary Committee.

SB 61. Holbert/Everitt. Concerning Disclosure Requirements for Small Issue Committees. The bill raises the limits for which small issue committees must disclose donors. CBA Position: Monitor. STATUS: Passed Senate, postponed indefinitely by House State, Veterans and Military Affairs Committee.

SB 83. Hill. Concerning Private Organizations Subject to Open Records Act. The bill makes certain private organizations that receive funding directly from governments on behalf of government employees subject to the Open Records Act. CBA Position: Monitor. STATUS: Postponed indefinitely by Senate Judiciary Committee. .

SB 126. Cooke & Johnston/Foote. Concerning Medical Tests for Victims of Assault. The bill establishes certain medical tests to be conducted on victims of assault and makes individual medical records confidential. CBA Position: Monitor. STATUS: Signed into law by Governor.

SB 139. Hill/Lee. Concerning Fraudulent Reports to Safe 2 Tell. The bill allows the identification of people who file fraudulent reports to Safe 2 Tell. CBA Position: Monitor. STATUS: Lost on second reading in Senate.

SB 172. Jones/Foote. Concerning Public Participation for High Performance Transportation Enterprise Projects. The bill requires a variety of public meetings and public notices for public-private transportation partnerships. CBA Position: Monitor. STATUS: Postponed indefinitely by Senate Transportation Committee.

SB 190. Grantham/Hamner. Concerning State Archive Fees. The bill allows the state archivist to set fees without going through rule-making. CBA Position: Monitor. STATUS: Signed into law by Governor.

SB 217. Roberts & Cooke/Williams. Concerning Collection of Data for Officer Involved Shootings. The bill requires all law enforcement agencies that have had officer involved shootings to report specified information to the Colorado Bureau of Investigation. CBI is required to create a report of all data received and to present the report to the legislature and post it on its website. CBA Position: Support. STATUS: Passed General Assembly, awaiting action by Governor.

SB 218. Roberts & Cooke/Williams. Concerning Disclosure of Misrepresentations by Peace Officers. The bill requires disclosure by law enforcement agencies of misrepresentations of the truth by peace officers they employ. CBA Position: Support. STATUS: Passed General Assembly, awaiting action by Governor.

SB 219. Cooke & Roberts/Salazar. Concerning Peace Officer Shootings Transparency Measures. The bill requires district attorneys and law enforcement agencies to develop protocols for investigations of officer involved shooting and to place such protocols on their web sites. CBA Position: Support. STATUS: Passed General Assembly, awaiting action by Governor.

SB 275. Lambert & Carroll/Hullinghorst & Young. Protect Information Provided to General Assembly. The bill strengthens whistle protections for state employees including allowing information that is confidential under the open records act to be provided to legislators, but requires legislators to keep such information confidential. CBA Position: Monitor. STATUS: Lost on second reading in Senate.

SB 287. Ulibarri & Crowder/Moreno & Dore. Concerning a Presidential Primary. The bill establishes a presidential primary to determine allocation of delegates to major party nominating conventions. CBA Position: Monitor. STATUS: Passed Senate State, Veteran and Military Affairs Committee, postponed indefinitely by Senate Appropriations Committee.

HB 1015. Winter/Cooke. Concerning an Interstate Compact for the Regulation of Emergency Medical Technicians. The bill would enroll Colorado in an interstate compact for the regulation of emergency medical technicians. It has requirements for open meetings and records similar to existing Colorado law. CBA Position: Monitor. STATUS: Passed General Assembly, awaiting action by Governor.

HB 1048. Williams/Balmer. Concerning Updates to Colorado Life Insurance Law. The bill updates a variety of elements in the oversight of life insurance. It continues provisions that allow submissions by outside auditors to be confidential and allows additional submissions concerning the solvency of the companies to be confidential. CBA Position: Monitor. STATUS: Signed into law by Governor.

HB 1061. Van Winkle/Roberts. Concerning Prohibition of Sealing Municipal Domestic Violence Convictions. The bill prohibits municipal domestic violence convictions from being sealed. It was amended in the House Judiciary Committee to refer the issue for study by the Colorado Commission on Criminal and Juvenile Justice. CBA Position: Support. STATUS: Amended to refer issue to CCJJ and passed House Judiciary Committee. Lost on House second reading calendar.

HB 1063. Pabon/Balmer. Concerning Prohibited Communications Concerning Patents. The bill prohibits people from making false, malicious statements about patents. CBA Position: Monitor. STATUS: Passed General Assembly, awaiting action by Governor.

HB 1092. Lebsock/Martinez-Humenik & Kefalas. Concerning Special District Transparency. The bill requires a variety of information kept by special districts to be posted on their web sites. CBA Position: Monitor. STATUS: Signed into law by Governor.

HB 1101. Lawrence & Fields. Concerning Certain Records of Public Defender and Office of Alternative Dispute Resolution Subject to Open Records Act. The bill makes records of the Public Defender and Office of Alternative Dispute Resolution, not withstanding the fact that such offices are part of the Judicial Branch, subject to the Open

Records Act. CBA Position: Support with amendment to clarify privilege. STATUS: Postponed indefinitely by House Judiciary Committee.

HB 1111. McCann/Crowder. Concerning Maternal Mortality Committee. The bill establishes the Maternal Mortality Committee in statute. It contains a broad provision making the Committee's work confidential. CBA Position: Seek amendment to limit confidentiality to issues involving patient privacy to ensure policy findings are available for public inspection. STATUS: Amended as requested by CBA and passed House, Senate Health and Human Services Committee Postponed indefinitely by Senate Finance Committee.

HB 1115. Lawrence. Concerning Unmanned Aerial Vehicles. The bill concerns public and private sector use of drones and includes provisions relating to privacy rights when a reasonable expectation of privacy exists. The bill was amended in the House Judiciary Committee to make it a crime to use any device to photograph or record anyone without consent if there is a reasonable expectation of privacy. CBA Position: Oppose unless amended to eliminate criminal penalty. STATUS: Passed House, lost on request of sponsors on second reading in Senate.

HB 1131. Esgar & Lee/Lambert. Concerning Release of Information About Incidents in Division of Youth Corrections Facilities. The bill requires that incident information, with identifying information redacted, be made available to the public. The bill was amended in the House Judiciary Committee to allow agencies to charge actual costs to redact information. CBA Position: Seek amendment to limit redaction fees as allowed by Open Records Act and support. STATUS: Amended as requested by CBA and passed General Assembly, awaiting action by Governor.

HB 1137. K. Becker/Cooke. Concerning Requests for Multiple Booking Photographs. The bill allows people who request booking photographs from law enforcement agencies to provide the written affirmation not to use the record for pecuniary gain or to charge to remove the photograph from its website for more than one request per year. CBA Position: Support. STATUS: Signed into law by Governor.

HB 1174. Carver/Woods. Concerning the Address Confidentiality Program. The bill adds law enforcement officers when the potential harm to the participant is substantially outweighed by the public interest in the disclosure and when no other alternative would satisfy the necessity for disclosure exists. CBA Position: Monitor. STATUS: Signed into law by Governor.

HB 1246. Lee & Pabon. Concerning Crowd Funding. The bill allows reduced security regulations when an investment is funded by crowd funding. Records of financial institutions in such transactions are not subject to inspection. CBA Position: Monitor. STATUS: Signed into law by Governor.

HB 1263. Lebsock and Tate. Concerning Sealing of Criminal Records. The bill prohibits sealing second or subsequent municipal court domestic violence convictions

and allows first time offenses if the offender has not been convicted of another offense for five years and the district attorney does not object. It requires public notice on the website of the state court administrator and allows for the seal to be opened if the circumstances change and the public's need to know exceeds the applicant's right to privacy. CBA Position: Monitor. STATUS: Postponed indefinitely by House Local Government Committee.

HB 1265. Moreno/Ulibarri. Concerning New Birth Certificate for Gender Designation. The bill amends the process for obtaining a new birth certificate based upon a change in gender. The application and old birth certificate are exempt from disclosure. The new birth certificate is subject to the same requirements for disclosure as all other birth certificates. CBA Position: Monitor. STATUS: Passed House, postponed indefinitely by Senate State, Veterans and Military Affairs Committee.

HB 1273. Lawrence/Newell. Concerning Comprehensive Reporting of School Discipline Reports. The bill enhances and extends the requirements for schools to report on discipline. CBA Position: Support. STATUS: Passed General Assembly, awaiting action by Governor.

HB 1285. Kagan & Williams/Ulibarri & Cooke. Concerning Body Cameras by Law Enforcement. The bill establishes a grant program to purchase body cameras by law enforcement officers and to train them on their use. It also establishes a study group to recommend protocols on use of body cameras. CBA Position: Seek amendment to include an advocate of government transparency on study group. STATUS: Amended as requested by CBA and passed General Assembly, awaiting action by Governor.

HB 1290. Salazar & Esgar/Guzman. Concerning Prohibiting Police Interference of Recording Incidents. The bill prohibits police officers from prohibiting or seizing lawful recording of incidents. CBA Position: Support. STATUS: Passed General Assembly, awaiting action by Governor.

HB 1339. Fields and Wilson/Grantham. Concerning School District Financial Transparency. The bill requires financial transparency information that is currently required to be posted on each school district website to be posted on a consolidated website at the Colorado Department of Education. CBA Position: Monitor. STATUS: Passed House, Senate Education Committee. Postponed indefinitely by Senate Appropriations Committee.

HB 1359. Danielson & Landgraf/Kefalas & Martinez Humenik. Concerning the ABLE Savings Program. The bill establishes a new version of a 529 savings program for college expenses. It contains the same confidentiality provisions that exist in other 529 programs. CBA Position: Monitor. STATUS: Passed General Assembly, awaiting action by Governor.

HB 1370. Primavera/ Guzman & T. Neville. Concerning County Auditor Access to Information. The bill allows a county auditor access to county human services

information. The auditor may not disclose information that is confidential under the law. CBA Position: Monitor. STATUS: Passed General Assembly, awaiting action by Governor.

HB 1378. Young & Brown/Aguilar & Grantham. Concerning Sales of Vanity License Plates. The bill updates the laws concerning sales of vanity license plates. It explicitly makes meeting and records related to the program subject to open meeting and records requirements. CBA Position: Monitor. STATUS: Lost on second reading in House.

HB 1389. Court & Hulinghorst/Steadman. Concerning the Hospital Fee Enterprise Fund. The bill makes hospital fee transfers an enterprise fund making such fees exempt from TABOR limitations. The bill explicitly makes the enterprise subject to open meeting and records requirements. CBA Position: Monitor. STATUS: Passed House, postponed indefinitely by Senate State, Veterans and Military Affairs Committee.