



## JCBL Legislative Update: Colorado Legislature adjourns after passing a major new legislation impacting Jefferson County businesses

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Last November's election brought major changes to the partisan control of Colorado's state government, and the Jefferson County business community saw the results of that political shift in the recently completed 2019 legislative session. Business issues were front and center this year and a large number of bills passed containing new mandates and liabilities on businesses and employers. Below is a high-level summary of some of the major changes coming to Colorado law this summer.

While it was a challenging year for businesses, the Jefferson County Business Lobby and the many other business organizations in our coalition can claim a number of important victories as we worked overtime to help educate legislators about the real-world impact of the policy changes they sought. And we can point to a number of meaningful bi-partisan successes - including more funding for transportation infrastructure.

### **New Employment Laws**

The business community worked to defeat or amend a number of bills imposing new mandates and regulations on employers. While the bills that ultimately passed were significantly amended at the suggestion of the business community, all employers need to become familiar with many new rules. The JCBL will be providing more detailed guidance in the future on these new employment laws and we encourage all employers to consult with their attorneys to ensure compliance. The major ones include:

- Employers may no longer inquire about the criminal history of job applicants on the initial job application nor may advertise in job postings that applicants with a criminal history may not apply. (HB19-1025)

- Employers face new legal liability for pay discrimination based on gender and other factors (Equal Pay for Equal Work). The justifications for any pay disparity are limited and burden falls on employers to show a pay disparity falls under one of those articulated factors. Also, employers may not inquire about previous wage history of job applicants, may not prohibit or retaliate against an employee for discussing compensation, must include the salary or wage range in every job posting and requires all promotion opportunities to be announced to all current employees. (SB19-085)
- Failure to pay properly due wages on a timely basis (“wage theft”) can now be prosecuted as a felony crime, in addition to existing civil penalties. Also, some legal protections for officers, directors and employees of a company against personal civil and criminal liability for unpaid wages have been removed, and the standard for determining who is an employee versus an independent contractor under the Wage Act have changed. (HB19-1267)
- Local governments now have the ability to establish their own minimum wage in excess of the state minimum wage. (HB19-1210)

A far-reaching proposal to establish a mandatory paid family and medical leave program was – after widespread opposition from private and public employers – scaled back to a study during the 2019 interim season. SB19-188 originally required employers and employees to pay into a state insurance pool that would provide wage replacement to employees taking time off to care for newborns, personal medical issues or those of family members. The plan was similar to the federal unpaid Family and Medical Leave Act, but with much different eligibility standards. Widespread concerns about the administration of such a plan by employers and the state, as well as real questions about the actuarial soundness of the plan, ultimately lead legislators to study the issue more this summer.

Likewise, a recurring proposal to require employers to offer a state-run retirement benefit plan to their employees will also be studied more over the summer. (SB19-173)

### **Sales and Use Tax Collection**

Colorado’s already complex sales tax administration and collection system was worsened last year with new emergency rules from the Colorado Department of Revenue change in the way companies shipping or delivering goods calculate the source of sales tax. Sales tax is now calculated on the location of delivery, rather than sale. The legislature passed two bipartisan bills in 2019 – both sponsored by Representative Tracy Kraft-Tharp (D-Arveda) – to address this issue and further simplify sales tax collection by businesses. SB19-005 establishes a state-wide geographic based database businesses can use to accurately determine the applicable sales and use taxes in the multitude of local taxing jurisdiction in which they do business. And HB19-1240 provided a de minimus exception to the new sourcing rules for the first \$100,000 in sales.

Other legislation passed to increase but also cap the vendor fee permitted to businesses collecting and remitting sales and use tax, which is intended to compensate the business for the administrative costs of collecting the tax. Current law allows businesses to retain 3.3% of

collections. The bill increased that amount to 4% but limits the allowance to \$1,000 per month. (HB19-1245)

### **Transportation Infrastructure Investment**

After the failure of two opposing ballot initiatives to increase funding for Colorado's roads and transit systems, the legislature struggled to find a way forward on a topic that is on the top of everyone's priority list. Through the budget process, the legislature appropriated roughly \$800 million for the upcoming budget year – far above average. But is also sent a question to the voters seeking permission for the state to keep tax dollars already collected but currently slated for rebates to taxpayers under TABOR (HB19-1257). If voters approve this measure in November of 2019, the state will split any additional tax revenues it collects above the TABOR limit on transportation, K-12 schools and higher education.

### **Environmental Regulation**

While Jefferson County doesn't produce any oil and gas, it is the home of thousands of industry-related jobs, which is why the JCBL opposed SB19-181. While Colorado already has some of the tightest industry regulations in the country, this bill eliminates the state prohibition on local regulation of oil and gas production and re-worked the state oil and gas regulatory commission to ensure even higher levels of industry regulation.

The legislature also passed sweeping new mandates for greenhouse gas reductions, targeting a 90% reduction economy-wide by 2050 and giving regulators relatively unlimited authority to determine how to meet that goal. (HB19-1261)

### **Health Care Affordability**

While bi-partisan agreement exists on the need to address ever-increasing health care costs – which are largely born by employers – that agreement doesn't always extend to the solutions. The Colorado legislature passed a number of major bills aimed at affordability in 2019, including: a state re-insurance plan to cover high-cost insurance claims (HB29-1168); limits on charges from out-of-network providers working at in-network facilities (HB19-1174); the creation of a Health Care Cost Analysis Task Force (HB19-1176)

Just a reminder that you can find the status of all of the bills on which the JCBL has taken a position at [jeffcobusinesslobby.org](http://jeffcobusinesslobby.org). While you are there, sign up for regular updates under the "Take Action" icon.

*The Jefferson County Business Lobby advocates as the unified voice of 3,000 Jefferson County businesses for public policies that strengthen our business climate. The JCBL is a partnership comprised of the Arvada, Evergreen, Golden, West Metro, Westminster and Wheat Ridge Chambers of Commerce, the Jefferson County Economic Development*

*Corporation, the Applewood and Wheat Ridge Business Associations and the Alameda Connects BID.*