

JCBL Legislative Update | March 2022

By Jeff Weist, Jefferson County Business Lobby

The Jefferson County Business Lobby (JCBL) — the united voice of JeffCo businesses at the Colorado State Capitol — has been busy analyzing and lobbying on several legislative proposals that may impact our county. Now past the halfway point, below is an update on some of the most important bills the JCBL is lobbying with about 50 days left in the legislative session.

A bill JCBL opposes (HB22-1152) would prohibit an employer from taking adverse action against an employee or applicant for using medical marijuana at work or recreational marijuana off duty but then testing positive. This bill was overwhelmingly killed in committee, even after the sponsors tried to save the bill by turning the question of marijuana use in the workplace over to a task force. The JCBL opposed that as well, as the Colorado Constitution and case law firmly back the right of an employer to enforce a drug use policy if it needs or chooses to do so.

Another bill JCBL opposes (HB22-1216), would have made enforcing non-disclosure, non-compete and other post-employment provisions in employment contracts very difficult. The sponsor of the bill is expected to kill the current version and introduce a new, more narrow bill that focuses on banning such agreements for low-wage workers. The revised bill would clarify the wage threshold at about \$112,000, below which the employer would not be able to take action.

An update on a positive bill for business (SB22-124), referred to as the SALT Parity Act, allows pass-through entities, such as limited liability companies and S-corporations, to pay personal state income tax at the entity level retroactively back to 2018. With this bill, small business owners have the ability to bypass the federal \$10,000 cap on deductions of state income tax. This bill passed out of the first committee and is waiting in appropriations. Similarly, the bi-partisan bill (HB22-1026), which creates a refundable income tax credit for businesses that provide alternative transportation options to employees and is supported by the JCBL, also passed through its first committee.

On the workforce front, SB22-140 would require the department of labor to select at least two work-based learning (WBL) intermediaries to coordinate employers, schools, youth, and adults participating in the incentive program to establish WBL opportunities and select employers to participate in the incentive program. Three million dollars would be dedicated for this program, which the business community generally supports, but the fear is implementing another underfunded workforce program that doesn't take off.

A new controversial bill that the business community opposes (HB22-1272) would eliminate a provision in current law that allows a defendant to be awarded attorney fees in tort actions if the case is dismissed for lack of merit prior to trial. The business community fears this bill will lead to an open season for frivolous litigation against businesses. The bill was recently significantly limited by the House of Representatives in a way that is acceptable to the business community.

Federally-funded American Rescue Plan Act (ARPA) bills are starting to roll out as the state still has about \$1.6 billion to spend. Rather than fund disparate independent programs, legislators are favoring larger priorities. Affordable housing is one such priority, following the work of a dedicated taskforce that met on this issue last summer. Currently, over \$200 million in affordable housing bills have been introduced. SB22-159 would dedicate \$150 million to a revolving loan account, set up in the department of housing, to be used to finance a number of affordable housing developments. As those loans get paid off, they get re-loaned back out to create a long-term funding mechanism. Another bill will give \$25 million to the Colorado Housing and Finance Authority for the construction of affordable housing rental assistance. Right now, JCBL is tracking four such affordable housing bills.

A bill introduced on Monday (SB22-161) represents another attempt by the labor movement to address wage theft. Wage theft takes a number of forms, including misclassifying who is an employee to avoid workers compensation and other benefits. As this new bill will affect all employers, we are tracking it closely and anticipate a number of changes.

Still to come in this session: a bill to increase air quality regulatory staff for greater enforcement, an ambitious healthcare proposal to change the way healthcare providers are compensated, and a significant recycling subsidy bill. Regarding labor, a bill is coming that would change apprentice to journeyman ratios and another bill will increase the ability for some public employees to collectively bargain.

The next two weeks will be focused on the budget, which will slow other legislative activity. ARPA bills will start to roll out during this time. Once the budget is known, bills will fly out quickly from appropriations.

The latest bill positions can be found at arvadachamber.org/billtracker.

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. The JCBL meets for an update call on the fourth Thursday of each month during session.