

THE EMPLOYER'S ADVISORY

A PERIODICAL HIGHLIGHTING
CURRENT EMPLOYMENT-LAW ISSUES

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Making the Turn and Coming Down the Stretch Run!!!

While the Kentucky Derby is still a few weeks away (May 3rd to be exact), Colorado businesses are anxiously awaiting the end of the Colorado legislative session, which is set to end, coincidentally, four days after the running of the Kentucky Derby, to see which employment/HR bills will pass. In fact, at the top of the stretch run, there are a number of employment/human resources bills at the Colorado legislature that are too close to call.

Colorado Worker Protection Collective Bargaining (SB25-005). Perhaps the bill with the most publicity press (a.k.a. “hoopla”) coming into and during the legislative year has been SB25-005. This bill would repeal a Colorado labor law that has been in place since the early 1940s. The existing bill, which is known as the Colorado Labor Peace Act, requires a union to win two votes approving the union, with the second requiring an affirmative vote of 75% of the employees, before all employees are required to pay dues. So, in short, in elections, there is one vote to form a union, and a second vote to collect mandatory fees for representing workers. Colorado Republicans say the law keeps the state competitive, but Colorado Democrats counter that the two votes is an

unnecessary hurdle that discourages unionization. After passing the Senate in mid-March, this bill is making its way through the House and is likely to end up on the Governor’s desk in the near future.

Enforcement Wage Hour Law (HB25-1001). If SB25-005 (*see above*) was the frontrunner on press coverage this legislative session, HB25-1001 could be considered the “dark horse” in the field. That is, there wasn’t exactly a lot of press regarding HB25-1001 in the early part of the legislative session. But as the legislative session progressed, this Bill picked up steam, and its impact, if passed, could be significant. One of the many things that this bill would provide is that it would raise the threshold for employees to file a wage claim with the Colorado Department of Labor. The current threshold to file a wage claim with the Colorado Department of Labor is \$7,500. HB25-1001 would raise that threshold to \$13,500, and this amount would increase every year in the future based on inflation. Also, if passed, this Bill would greatly increase the penalties that can be imposed on organizations that incorrectly classify employees as independent contractors. This Bill passed through the House in late March, and it has started its race through the Senate. While it’s too soon to tell if this Bill has enough to go the distance, it’s definitely one to keep an eye on.

Local Governments Tip Offsets for Tipped Employees (HB25-1208). This Bill proposes to cut the minimum wage for restaurants that are in a city or county where the city or county has raised the minimum wage above the state-required amount of \$14.81 per hour. The Bill certainly started slowly as it meandered its way through the House of Representatives, but once it left the House, the Senate quickly passed it, and it's anticipated to be on the Governor's desk in the near future, where it is expected to get signed by the Governor.

Concerning Limitations On Restrictive Employment Agreements (SB25-083). Another one of the "quiet bills" this Legislative session has been SB25-083, which addresses physician employment agreements. Currently, Colorado law permits an organization to have an agreement with a physician wherein upon leaving the organization, the physician must pay the organization for any damage suffered by the organization due to the physician leaving. If passed, SB25-083 would no longer permit an organization to have such a provision in any agreement with a physician or health care provider. Further, if passed, the Bill would also prohibit organizations from preventing physicians from providing their current patients with information about where the physician plans to move their practice. This Bill passed the Senate in early April and quickly worked its way through the House of Representatives and, with the momentum it seems to have, it may end up on the Governor's desk in the not-so-distant future.

Protecting Workers from Extreme Temperatures (HB25-1286). One bill that shot out of the gate with record speed and quickly found its way mired in the mud was HB25-1286. This 26-page bill was chock full of numerous requirements with respect to the goal to protect employees from extreme temperatures, which the Bill identifies as being at or above 80 degrees Fahrenheit and/or at or below 30 degrees Fahrenheit. But while it started quickly, the Bill ended up not making it out of a House Committee and, so, it has been postponed indefinitely.

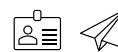
And these aren't the only employment/HR bills in the Colorado legislature. For example, HB25-1300 would make numerous changes to Colorado's workers' compensation system, which could include providing employees with access to more physicians than is currently permitted. Then, there's SB25-166. This Bill identifies performance metrics related to workplace violence in determining quality incentive payments to hospitals.

In sum, it's a crowded field as we near the end of the legislative session, and Colorado employers are certainly sitting on the edge of their seats in a race that can go in a lot of different directions. Stay tuned!!!

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