



# 2020 Legislative Report

## 2020 Session Summary

The 2nd Regular Session of the 72nd General Assembly concluded on June 15th. Hicks & Associates is pleased to present this report on the activities of the legislature in 2020.

On January 8th, when the session began, the message from Democratic leadership in both chambers was pass legislation that had bi-partisanship and a broad stakeholder process in order to pass the best possible legislation. It is said that a good law

happens when everyone loses something and not just one side loses. Another expectation going into the session, was that there wouldn't be as many controversial bills as the prior year due to the election year. Democratic leadership priorities at the beginning of session included paid family and medical leave, transportation funding, education funding, combat climate change, and justice system reform. As session got underway, it was realized

that only a few bills would gain bi-partisanship and large stakeholder process, showing that leadership planned to go in their own partisan direction. This left the Colorado business community in the same position as last year's session, on the defensive.

- ✓ 651 Bills introduced
- ✓ 260 Bills killed
- ✓ 135 Bills signed into/became law

Just after hitting the halfway point of the session, the COVID-19 pandemic took hold, and the session was suspended for 2-plus months. Before the suspension the General Assembly passed legislation that asked for the Colorado Supreme Court to determine whether the 120-

day legislative session must be counted consecutively, or if the days could be non-consecutive, when a state of emergency is declared. The Colorado Supreme Court ruled that the days do not have to be consecutive during a public health emergency.

As many industries were forced to close, we worked with the construction and other industries to lobby

the Governor's office and state agencies to ensure those industries as essential services. Even though the legislative session was suspended, the Joint Budget Committee (JBC) continued to work. In early March, the JBC was nearly done crafting the state budget, but that all changed as the pandemic hit. Many issues arose during the suspension, but none as dire as the huge budget shortfall the state was facing. At the beginning of January, the state was expecting \$800 million in new money, then during the March budget forecast that number went to just over \$27 million of new money, and the May budget forecast projected a \$3.3 billion budget shortfall, which is expected to be the case for the next few years.

With the expected budget shortfall, it was realized that most bills with a negative fiscal impact to the state would not be pursued and would be postponed indefinitely. Right before the session reconvened at the end of May, the motto was "Fast, Friendly, and Free" Speaker KC Becker (D-Boulder) stated. As the session reconvened it was apparent that leadership was not sticking with that motto. As many bills were killed there were multiple bills that were introduced looking to directly address issues related to the COVID-19 pandemic. With the General Assembly only planning on being back in session for three weeks the new bills flew through the process.

Even though there was a plan of how to go about navigating the session by the majority in both chambers, it was proven that those were merely just words as the General Assembly went in a very partisan direction to start the session and after the suspension took full advantage of the crisis to enact the legislation they wanted all along.

Throughout the session, as Colorado business community was on the defensive, GreenCO teamed up with coalitions and combined efforts were undertaken to amend and revise many of the business policy bills introduced due to cost and practical business application issues. While there

were successes during the session, the battle to defend sound business practices and to limit governmental overreach continued to the last day of the session.

There were 651 bills introduced in the 2020 Session, which is 53 more bills than last year (593), excluding memorials and resolutions (710). There were over 250 bills postponed indefinitely and an additional 59 bills died on the calendar. As of June 29<sup>th</sup>, the Governor has signed 135 bills into law. Below are some of the bills that were introduced with impacts to the business industry both from before the suspension and after.

Simplifying sales and use tax in Colorado continues to be a legislative priority. This year the Sales and Use Tax Simplification Task Force had two priority bills that passed through the process.

**HB20-1022 Sales and Use Tax Simplification Task Force**, was introduced as the task force was going to sunset this year. This bill extends the task force for the next 5 years. The bill did have a negative fiscal impact to the state, but the appropriation was stripped out and the bill passed through the legislative process.

**HB20-1023 State Address Data For Sales and Use Tax Collection**, also passed through the legislative process. This bill establishes a hold harmless provision for those who use the state's geographic information system database (GIS database) to determine the jurisdictions to which sales and use tax is owed. As this is a new program the bill hopes to protect those individuals and businesses from any issues that arise from the new system that it not their fault.

**HB20-1089 Employee Protection Lawful Off Duty Activities**, was one of the first 100 bills introduced in the House. The bill would have prohibited an employer from terminating an employee for off-duty activities that are legal under state law even if those activities are not legal under

federal law. For example, if an employee was to use marijuana while off-duty, they couldn't lose their job. The only way you could is if the employee were impaired while on the job. GreenCO worked with other business groups in opposition to this bill, we brought up the issues on reliability of testing, as well as employees who operate heavy machinery and public safety. In the end the bill died in its first committee and did not receive one vote in support.

Consumer protection and construction defects were both hot topics during the session, as we saw multiple bills introduced concerning both issues.

**SB20-080 Consumer Protection Act Damages, SB20-093 Consumer and Employee Dispute Resolution Fairness, and SB20-138 Consumer Protection Construction Defect Time Period.**

GreenCO worked with groups within the construction industry, like BJ4C to oppose these pieces of legislation. We also worked on amendments that were adopted. Even before the suspension these bills had an uphill battle. In the end we were able to gain enough opposition and the added pressure of COVID-19, all three were defeated. It is expected that these bills will come back in future sessions.

**Pesticides**

This session there were three bills introduced to address pesticide related issues. GreenCO was a part of a large coalition, Colorado for Responsible Pesticide Application (CPRA) to work on these bills.

**HB20-1180 Protect Pollinators Through Pesticide Regulation.** The bill would restrict the use of neonicotinoid and sulfoximine pesticides. While the bill was being drafted, the CPRA coalition expressed to the bill sponsors to exempt certain applicators, especially on the commercial side. GreenCO came and testified on the bill in committee to give expertise on the issue. The bill was

postponed indefinitely due to COVID-19, but it is expected that we will see it again.

**SB20-101 Investigation Process for Pesticide Applicators.** This bill requires that pesticide applicators be notified about complaints against them within 24 hours of identifying the subject of the complaint by the Department or Commissioner of Agriculture or no disciplinary action can be taken against them. All complaint investigations must be completed within one year of the complaint. GreenCO saw this bill as a good step in the right direction to make sure the complaint process was not drawn out. The biggest issue was the negative fiscal impact the bill had but is expected to surface again in the future.

**SB20-189 Local Government Pesticide No Preemption.** GreenCO worked with CPRA and other groups to lobby leadership and committee in opposition of this bill. Without scientific backing and stakeholder involvement this legislation would cause a number of issues. The regulation of pesticides should stay at the state level under the authority of the Department of Agriculture. Giving locals the ability to create patch work regulations and oversight would make industry operations quite cumbersome, not to mention costlier with no added benefit. It is anticipated to see this bill in the future and GreenCO will continue to be proactive.

**Post Suspension/COVID-19 Related**

Once the session reconvened on May 26th, GreenCO refocused their efforts to monitor and amend the COVID related bills that the legislature introduced. Several of the bills had impacts to GreenCO and its members and with most bills looking to pass GreenCO was able to get key amendments and changes to minimize the impacts to its members and industry.

**HB2-1414 Price Gouge Amid Disaster Deceptive Trade Practice.** While the session was suspended, the sponsors and the Attorney General's office

reached out to GreenCO and other industries for input while the bill was being crafted. The bill allows only the Attorney General's office and District Attorneys to investigate possible price gouging. It only will apply during a declared emergency, either by the President or the Governor, and it has a limited period in which these cases can be brought. GreenCO tracked this bill closely and continued to work with the Attorney General's office on amendments that were adopted.

**HB20-1415 Whistleblower Protection Public Health Emergencies.** The sponsors of the bill expressed their concerns with Colorado's lack of whistleblower protection. As introduced, there were many concerns from not only the business community but local governments as well. GreenCO was successful working with the sponsors and other stakeholders to amend the bill to address many concerns including, changing the burden of proof from the employer as well as the definition of principle. The bill was passed on the final day of the session.

**HB20-1420 Adjust Tax Expenditures for State Education Fund.** This bill was the biggest bombshell of the session, it was introduced one week before the legislature concluded the session. This bill introduction came at a surprise to everyone as there was no stakeholder process. As introduced, there were many concerns with the bill from both the business community and Governor Jared Polis, who stated that he would veto the bill as introduced. The bill looked to eliminate multiple tax exemptions for businesses in hopes to generate revenue for education. It would also decouple the state taxable income calculation from the federal income taxes for multiple areas. The bill was going to affect all industries, not just the successful and wealthy ones as the sponsors stated as the intent. In the final few days of the session there were many changes made to the bill, including taking out the energy deduction for manufactures and put a 2-year sunset on the legislation. The bill was still opposed by the business community, but it was severely watered

down and significantly lessened the impact to many businesses. GreenCO worked with other stakeholder groups and members to send out action alerts as to the impact GreenCO members would have subject to with the bill as introduced.

**SB20-205 Sick Leave for Employees.** The bill requires that employers offer sick leave to their employees for reasons related to COVID-19 until December 31<sup>st</sup>, which is in line with the federal "Emergency Paid Sick Leave Act" in the "Families First Coronavirus Response Act". Beginning January 1<sup>st</sup>, 2021, the act requires all employers in Colorado to provide paid sick leave to their employees. The employee will earn 1 hour of paid sick leave for every 30 hours they work. The maximum amount an employee will be able to earn, and use is 48 hours a year. As it passed on the final day, the bill was amended and has delayed the implementation for employers of 15 or less employees for an additional year. Employers that provide comparable paid leave to their employees are not required to provide additional paid sick leave.

**SB20-207 Unemployment Insurance.** When the bill was introduced, there was much concern from the business community, especially with the definition of employee which was different than current in law. GreenCO worked with the sponsors and other stakeholders to address this concern along with many others. In the end the bill restored the definition of employee to current law and tried to mitigate the cost to employers as it pertains to the surcharge. With adopted amendments mitigated much of the concerns from the business community and it made it through the legislative process.

**SB20-216 Workers' Compensation for COVID-19.** The bill looked to provide workers compensation for those essential workers who contracted COVID-19 while on the job. From the beginning, there were many issues with the bill including putting the burden of proof on the employers to prove that the worker did not contract

COVID-19 on the job. This is the opposite of how workers compensation claims currently operate. GreenCO worked with a large coalition of employers in opposition to this bill. In the end the sheer costs of this was too large, especially with the current state of the budget, and the bill was postponed indefinitely.

Looking for a long-term fix for transportation funding was in discussions but as COVID-19 derailed the session it did the same to finding a solution. This issue will not be going away and will need to be addressed but when that will happen is unknown, as the state expects their budget woes to continue in the next few years.

For the second consecutive year all business groups were on the defensive and true policy advances were few. Even though it is an election year we still saw many significant pieces of legislation pushed through the process with minimal stakeholder process.

The interim will be different than any other as the General Assembly has decided to have no interim committees because of the budget shortfall due to COVID-19. There will still be legislation drafted over the interim and GreenCO will stay engaged and keep you updated along the way.

This election season will prove to be very important, as the Colorado Senate has a very small majority

(19-16 Democrats) and the Republicans will try to flip the majority back in their favor. Even with the passage of Paid Sick Leave, there will be a ballot initiative voted on in November for long-term Paid Family and Medical Leave. If signatures are allowed to be submitted electronically it is expected that there will be many other ballot measures this November, including raising the Tobacco Tax to fund education.

GreenCO will be conducting candidate interviews to decide who we will support in the upcoming election cycle. For the past few years we have seen much anti-business legislation and need to continue to support candidates that are pro-business and understand how important industry is to the state.

We want to thank the GreenCO Legislative Committee for their hard work and guidance this session. Meeting bi-weekly was vital to the process and gave us the expertise and direction we needed to amend support/oppose bills.

Hicks & Assoc. reviewed every bill that was introduced to determine the possible affects it could have on GreenCO. GreenCO tracked 37 bills throughout the session and took positions on 14 bills while we closely monitored or amended the rest. We were a resource to many business groups and legislators as it pertained to the industry and general business. Below is a list of the all the bills GreenCO tracked.

## GreenCO Bill Position Report

### Engagement, Lobbying, Testimony, & Monitoring

**GreenCO was heavily involved in multiple pieces of legislation this legislative session. The following bills include priority bills, meaning we directed the lobbying team to actively engage with other stakeholders, lobby all members of the General Assembly, provide testimony during committee, create fact sheets to ensure GreenCO's position and engage in any and all amendments to bills. Also included are the bills we were asked to engage in by other key stakeholders and bills that we were monitoring**

Bill Number	Short Title	GreenCO Position	Outcome	GreenCO's Actions
HB20-1002	College Credit for Work Experience	Monitor	Has not been sent to Governor	GreenCO monitored this bill as due to the impact it may have on our partners at CSU.
HB20-1022*	Sales and Use Tax Simplification Task Force	Support	Sent to Governor	Worked with stakeholders and sponsors to provide support through lobbying efforts.
HB20-1023*	State Address Data for Sales and Use Tax Collection	Support	Sent to Governor	Worked with coalition members and the sponsors to make sure this legislation passed. GreenCO members would benefit from this system.
HB20-1046*	Private Construction Contract Payment Requirements	Monitor	Postponed Indefinitely	Collaborated with stakeholders and like industries as well as the sponsors to provide feedback and information. Since this issue needs collaboration the bill was tabled and GreenCO we will be working on it over the interim as the bill most likely will come back next year.
HB20-1047	Develop a Statewide Organics Management Plan	Monitor	Postponed Indefinitely	This bill was listed as monitor by GreenCO as it had no direct impact as introduced.
HB20-1072	Study Emerging Technologies for Water Management	Monitor	Postponed Indefinitely	As reviewed by GreenCO this bill was requested to just monitor based on the impacts to GreenCO
HB20-1089*	Employee Protection Lawful Off-duty Activities	Oppose	Postponed Indefinitely	Worked with a large coalition group on amendments but weren't able to get to a good place. GreenCO then lobbied to the House Business Committee and were able to defeat the bill.
HB20-1093	County Authority License and Regulate Business	Monitor	Signed by Governor 3/23	GreenCO monitored this legislation to make sure that local authorities were not looking to add additional regulations
HB20-1094	Repeal Fee Cap On-site Wastewater Treatment System	Monitor	Signed by Governor 3/11	As reviewed by GreenCO this bill was requested to just monitor based on the non-direct impact to GreenCO
HB20-1095	Local Governments Water Elements in Master Plan	Monitor	Signed By Governor 3/24	As water plans have been followed by GreenCO in the past this bill was monitored for any direct impact to their members.

Bill Number	Short Title	GreenCO Position	Outcome	GreenCO Actions
HB20-1115	Sales Tax Exemption for Farm Fencing Material	Monitor	Postponed Indefinitely	GreenCO voted to monitor this bill as all sales tax related bills all get reviewed for impacts.
HB20-1151	Expand Authority for Regional Transportation Improvements	Monitor	Died on the Calendar	Transportation funding is a main priority for GreenCO and this bill may not be the answer for CO. The sponsors only introduced this bill to ensure conversations.
HB20-1154	Workers' Compensation	Monitor	Died on the Calendar	This bill was brought to us by the sponsors. IECRM chose to Monitor as it looked not to have a direct impact on IECRM as introduced
HB20-1157	Loaned Water for Instream Flows to Improve Environment	Monitor	Signed by Governor 3/20	As reviewed by GreenCO this bill was requested to just monitor based on the non-direct impacts to GreenCO
HB20-1159	State Engineer Confirm Existing Use Instream Flow	Monitor	Signed by Governor 4/1	Reviewed by GreenCO this bill was requested to just monitor based on the non-direct impacts to GreenCO
HB20-1180*	Protect Pollinators Through Pesticide Regulation	Monitor	Postponed Indefinitely	Worked with CPRA to mitigate many concerns from our industry as well as had members testify in committee.
HB20-1195*	Consumer Digital Repair Bill of Rights	Oppose	Postponed Indefinitely	Lobbied the House Business and labor committee.
HB20-1414	Price Gouge Amid Disaster Deceptive Trade Practice	Monitor	Has not been sent to Governor	GreenCO participated with BJ4C and suggested a series of amendments to this legislation. GreenCO decided to Monitor after bill was amended,
HB20-1415	Whistleblower Protection Public Health Emergencies	Monitor	Sent to Governor	Worked with sponsors and stakeholders to address concerns from the industry. We were able to amend the bill to mitigate many concerns.
HB20-1420*	Adjust Tax Expenditures for state Education Fund	Oppose	Waiting to be sent to Governor	Worked with large coalition to oppose the bill. We were able to work with coalition to get the bill watered down the effects on GreenCO.
SB20-009	Expand Adult Education Grant Program	Monitor	Sent to Governor	GreenCO reviewed this bill and looked to just monitor based on the non-direct impacts to GreenCO
SB20-038	Statewide Biodiesel Blend Requirement Diesel Fuel Sales	Monitor	Postponed Indefinitely	Worked with large business coalition to work on this bill. GreenCO closely monitored for possible increase cost on fuel.
SB20-080	Consumer Protection Act Damages	Oppose	Postponed Indefinitely	Worked with large business coalition to oppose the bill.
SB20-081	School Information for Apprenticeship Directory	Monitor	Signed by Governor 3/20	GreenCO has monitored a number of bills that expand the director for apprenticeships. This bill did not have a direct impact on GreenCO.

Bill Number	Short Title	GreenCO Position	Outcome	GreenCO Actions
SB20-093	Consumer and Employee Dispute Resolution Fairness	Oppose	Postponed Indefinitely	GreenCO worked with a coalition group to oppose this legislation. Its negative impact on the industry and arbitration process were key reason for opposition.
SB20-099	Thresholds for Sales Tax Collection Requirements	Support	Postponed Indefinitely	Expressed our support to sponsors and committee members.
SB20-101	Investigate Process for Pesticide Applicators	Monitor	Postponed Indefinitely	GreenCO chose to monitor this bill after a long stakeholder process and a number of agreed amendments. GreenCO focus became working against SB-189
SB20-138*	Consumer Protection Construction Defect Time Period	Oppose	Died on Calendar	Worked with large coalition to oppose the bill and lobby Senators on our opposition to the bill.
SB20-159	Global Warming Potential for Public Project Materials	Oppose	Died on Calendar	GreenCO worked with like construction groups to seek amendments to limit this bill to specific products.
SB20-189*	Local Government Pesticide No Preemption	Oppose	Postponed Indefinitely	Worked with CPRA on the issue and met with sponsors on bill to express our opposition.
SB20-204	Additional Resources to Protect Air Quality	Monitor	Sent to Governor	GreenCO reviewed this bill and looked to actively monitor based on the non-direct impacts to GreenCO
SB20-205*	Sick Leave For Employees	Oppose	Waiting to be sent to Governor	Worked with large business coalition opposing the bill. We knew it was going to pass and were able to get some amendments to address some of the concerns.
SB20-207*	Unemployment Insurance	Oppose	Waiting to be sent to Governor	Worked with stakeholders and sponsors to amend the bill and mitigate many concerns.
SB20-215	Health Insurance Affordability Enterprise	Monitor	Sent to Governor	Engaged with large coalition to oppose the bill and lobby the legislature on the impact this bill will have the business community.
SB20-216*	Workers' Compensation For COVID-19	Oppose	Postponed Indefinitely	Worked with Pinnacol Assurance and other groups to oppose the bill. Lobbied the Senate on the effects of the bill.
SB20-223	Assessment Rate Moratorium & Conforming Changes	Monitor	Governor Signed 6/23	GreenCO monitored this legislation as it was a companion bill to SCR20-001
SCR20-001	Repeal Property Tax Assessment Rates	Monitor	Passed both Chambers	

\*indicates priority bill

Link to GreenCO 2020 bill tracker: <https://coloradocapitolwatch.com/bill-tracker-votes/0/1550/2020/0/>