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Colorado Governor Bill Owens (R) gave his veto pen a workout this 2005 legislative session, vetoing a record 43 bills (and counting) that were passed by the Democratic-controlled House and Senate. Among the legislation that fell victim to the governor's veto were bills that would have made significant changes to Colorado's labor and employment laws. Owens struck down these proposals, claiming they were job killers and would needlessly tie up employers and entrepreneurs in litigation and red tape. The following is a summary of some of the bills vetoed by Governor Owens at the end of the legislative session.

Sexual Orientation Discrimination. The Colorado Anti-Discrimination Act (CADA) prohibits employment discrimination based on sex, race, creed, color, disability and national origin. SB 28, sponsored by Rep. Alice Madden (D) and Sen. Jennifer Veiga (D), would have added sexual orientation and gender variance as protected classes under CADA. Noting that Colorado's "off-duty conduct statute" passed in 1990 has already been interpreted by courts to protect employees from being fired for sexual orientation, Governor Owens vetoed the bill as an unnecessary expansion of employers' workplace liability. Owens added that SB 28 could also have been interpreted as requiring that employers offer benefits to same-sex couples. Owens stated that the decision whether to extend benefits to same-sex couples is one best left to businesses and not mandated by government.

Employee Access to Personnel Files. Unlike employees in many other states, employees and ex-employees in Colorado do not have a right to access and review their personnel files. HB 1115, introduced by Rep. Mike Cerbo (D) and Sen. Dan Grossman (D), would have allowed employees and former employees such access. Employers who failed to provide employees with access would have faced stiff monetary penalties. Citing the bill's overbroad definition of "personnel files," Governor Owens vetoed the bill, stating, "Such a vague and ambiguous definition ... could arguably include every single document that ever existed, both paper and electronic, which pertains to the employee...." Owens also said the legislation would provide disgruntled employees with an avenue to harass employers and file frivolous lawsuits.

Unemployment Benefits & Lockouts. Under current law, if an employer

locks out employees in order to gain an advantage in labor bargaining negotiations—what is known as an “offensive lockout”—those locked-out employees are entitled to collect unemployment benefits. However, employees who are locked out as a defensive action to protect business property or operations against sabotage during a labor dispute are not eligible for unemployment. Under HB 1239, sponsored by Rep. Cerbo and Sen. Grossman, the definition of lockout would have been changed so that all locked-out employees could collect unemployment compensation. Governor Owens vetoed the bill, stating that allowing all locked-out employees to collect unemployment would place a substantial drain on the unemployment insurance fund at a time when the fund is barely solvent.

Nonpayment of Wages Penalty. Sponsored by Rep. Terrance Carroll (D) and Sen. Ron Tupa, HB 1179 would increase the penalty for unpaid wages owed to a terminated employee from the current penalty of 50 percent of the amount due to a penalty of up to 200 percent of the wages owed. Governor Owens vetoed the bill, stating that few employers knowingly disobey Colorado's final pay statute and that most situations involving an employer's failure to pay final wages are based on a misunderstanding between the parties involved.

Expanded Unemployment Benefits. HB 1020, sponsored by Rep. Cerbo and Sen. Stephanie Takis (D), would have created an alternative method for calculating unemployment insurance eligibility that would give more weight to the employee's recent earnings than the current method for determining eligibility. Governor Owens vetoed the bill claiming it would cost the unemployment insurance fund between \$3.47 million and \$4.5 million.

Expert Testimony & Workers' Comp. SB 134, sponsored by Rep. Fran Coleman (D) and Sen. Brandon Shaffer (D), would have banned live expert testimony in workers' compensation hearings unless both sides or an administrative law judge decided to allow it. Governor Owens vetoed the bill, saying that while it was a well-intended effort to reduce costs associated with workers' compensation litigation, the bill unwisely sacrificed live expert testimony, which is often needed in complicated workers' compensation cases, for minimal cost savings.

Workers' Comp & Construction. HB 1318 was intended to create a level playing field for general contractors and independent contractors working in the construction industry. Currently, general contractors are required to carry workers' compensation insurance for their employees. Independent contractors are not. HB 1318 would have required any person who contracts for work at a construction site to either provide workers' compensation coverage or require proof of workers' compensation coverage. Governor Owens vetoed the bill, saying that it would have the unintended consequence of forcing small property owners to use big, expensive general contractors, rather than less expensive small, independent contractors, for routine maintenance and small remodeling jobs, in order to avoid the risk of being fined for hiring an uninsured contractor.

And Bills That Never Made It To The Governor's Desk.

- **Parental Leave.** SB 21, as originally introduced by Sen. Peter Groff (D), would have required employers with 10 or more employees to give employees 40 hours of unpaid leave each year to attend parent-teacher conferences and other school events. After significantly watering the bill down to make it more palatable to the business community, House Democrats ultimately killed the bill.
- **Workers' Comp Physician Selection.** HB 1018 would have allowed injured workers to select from an employer-designated panel the physician who will treat them for on-the-job injuries. Under current workers' compensation law, employers have the right to select the physician who treats the injured worker. The bill died in the House, apparently because Rep. Anne McGihon (D) cast an accidental vote in opposition to the legislation.
- **Individual Liability for Unpaid Wages.** SB 1204 would have made business owners individually liable for employee wages when their companies go insolvent. The bill failed to meet the crossover deadline.
- **Anti-Outsourcing Bill.** SB 23 would have prohibited an award of a state contract to any business that performs, or hires a subcontractor to perform, the services outside the United States. The Democrat who sponsored the bill withdrew the legislation after business lobbied against the bill, saying it would impose significant costs to the state if enacted.

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