

STATE GOVERNMENT

Gaming HB 09-1272 (Enacted) <i>Limited Gaming Amendment 50 Implementation</i>			SB 09-050 (Enacted) <i>Limited Gaming Commission Member From Gaming Area</i>			HB 09-1002 (Enacted) <i>State Lottery Operations</i>								
Alcoholic Beverage Sales SB 09-254 (Enacted) <i>Common Licensed Premises Beer Manufacturers</i>									HB 09-1192 (Postponed Indefinitely) <i>Eliminate 3.2 Beer Restrictions</i>					
Land Use HB 09-1317 (Enacted) <i>No State Lands to Expand Pinon Canyon</i>									HB 09-1201 (Postponed Indefinitely) <i>Land Use Planning Military Installations</i>			SB 09-158 (Enacted) <i>Private Land Conservation Incentive</i>		
Information Technology HB 09-1285 (Enacted) <i>Government Data Sharing</i>														
State Contracting and Procurement SB 09-248 (Enacted) <i>Public Works Contracts Surety Requirements</i>									HB 09-1368 (Postponed Indefinitely) <i>Exclude Specified Contracts from the Centralized Contract Management System</i>			SB 09-297 (Enacted) <i>Expedite Federal Stimulus Act Projects</i>		
SB 09-099 (Enacted) <i>State Procurement Supplier Databases</i>			SB 09-092 (Enacted) <i>State Motor Vehicles Use Natural Gas</i>											
State Employees HB 09-1008 (Enacted) <i>State Employee Annual Leave Transfers</i>									HB 09-1221 (Postponed Indefinitely) <i>Mandatory Furloughs for State Employees</i>			SB 09-088 (Enacted) <i>State Group Benefits Domestic Partners</i>		
Public Employees' Retirement Association (PERA) SB 09-282 (Enacted) <i>Denver Public School Retirement PERA Merger</i>									SB 09-066 (Enacted) <i>PERA Merger State Defined Contribution Plan</i>			SB 09-157 (Enacted) <i>CU Retirement Plan Eligibility PERA</i>		
General HB 09-1281 (Enacted) <i>State Boards Persons With Disabilities</i>									HB 09-1010 (Enacted) <i>Expand Film Production in Colorado</i>					

During the 2009 legislative session, a number of bills were considered that impact state government, including bills addressing government contracting; alcoholic beverage and gaming industry regulation; land use; public employee pensions; and the management of information technology by state agencies.

Gaming

The General Assembly considered legislation addressing the administration of limited gaming in the state, as well as the Colorado Lottery.

Limited gaming. **House Bill 09-1272** implements Amendment 50, a constitutional amendment addressing the operation of limited gaming in Colorado. Amendment 50 was adopted by Colorado voters at the November 2008 general election. HB 09-1272 allows the extension of limited gaming hours, games, and bet limits if approved by local voters. Specifically, the bill authorizes:

- inclusion of the games of roulette and craps within the scope of extended limited gaming;
- an increase in the limited gaming betting limit from \$5 to \$100;
- a repeal of current limits on casino hours of operation;
- the creation of the Extended Limited Gaming Fund in the state treasury, in conjunction with defining limited gaming tax revenue attributable to extended limited gaming;
- payment of funds from the Extended Limited Gaming Fund to the state's public community colleges, junior colleges and local district colleges for financial aid and classroom instruction;
- colleges to issue bonds supported by gaming tax revenue; and
- funding from the Extended Limited Gaming Fund to the municipalities of Central City, Black Hawk and Cripple Creek and to Gilpin and Teller counties to address local gaming impacts.

The Colorado Limited Gaming Control Commission is comprised of five members who are appointed by the Governor. **Senate Bill 09-50** requires that at least one commission member reside in either Gilpin or Teller counties. Further, the bill allows this commission member to own private residential property in Central City, Black Hawk Cripple Creek, Gilpin County or Teller County.

Colorado lottery. **House Bill 09-1002** addresses recommendations by the Colorado State Auditor to improve the operations of the Colorado Lottery Commission. The bill clarifies the duties and powers of the Colorado Lottery Commission and the State Lottery Division, and allows the division to sell promotional items such as hats and T-shirts. Current law requires that a certified public accountant witness Colorado Lottery prize drawings and examine equipment used in the drawings. The bill modifies this statute to require that an auditor perform these functions. Further, the bill clarifies the regulatory framework governing the regulation of instant scratch games.

Sales of Alcoholic Beverages

The General Assembly considered two bills during the 2009 session addressing the sale of alcoholic beverages in the state.

Beer manufacturing. **Senate Bill 09-254** allows licensed brew pubs and licensed beer manufacturers, with the approval of the Department of Revenue, to use a common licensed premises to manufacture beer. Current law allows certain licensed wineries to use common licensed premises for the production of wine. SB 09-254 expands the use of common licensed premises to include the

production of beer products. The bill also authorizes the wholesale (but not retail) sale of beer from such alternating proprietor licensed premises. Alternating proprietor licensed premises are premises that are owned by a licensed alcoholic beverage manufacturer within which the licensee and other licensees are authorized to manufacture and store alcoholic beverages. The department is charged to develop regulations addressing the implementation, standardization, and enforcement of alternating proprietor licensed premises.

House Bill 09-1192, which was postponed indefinitely, would have removed the limitation in current law on the percentage of alcohol contained in fermented malt beverages (beer with not more than 3.2 percent alcohol by weight), thereby allowing beer licensees to manufacture, sell at wholesale or retail, or distribute full-strength beer. Further, the bill would have required 18- to 20-year-old employees of premises where beer is sold at retail in containers for off-premises consumption to comply with server and seller training requirements established by the Liquor Enforcement Division within the Department of Revenue, or to be supervised by a person who is at least 21 years-old.

Land Use

The General Assembly considered legislation addressing the potential sale of state lands for expansion of the U.S. Army Pinon Canyon maneuver site, land development near military installations, and landowner conservation incentive programs.

Land use — military facilities. **House Bill 09-1317** prohibits the State Board of Land Commissioners from selling or leasing property to the U.S. Department of Defense for expansion of the Pinon Canyon Maneuver Site. The bill also requires the Colorado attorney general to oppose any attempt by the federal government to acquire state lands associated with expansion of the site for which consent to acquire has been withdrawn.

House Bill 09-1201, which was postponed indefinitely, would have required local governments to address adverse effects of development in close proximity to military installations through land use planning. Under the bill, by December 31, 2010, counties and municipalities within two miles of a military installation that includes property within a high noise or accident potential zone would have been required to amend county or municipal master plans to ensure that future development is compatible with the high noise or accident potential of the military installation. In addition, these local governments would have been required, by December 31, 2011, to amend zoning or other land development regulations to ensure compatibility with the military installation, and to incorporate sound attenuation standards into local government building codes. Under the bill, affected property owners were to be notified of potential changes to local government master plans, and zoning or land development regulations.

Land conservation programs study. **Senate Bill 09-158** requires the Department of Natural Resources to conduct a study of federal and state landowner conservation programs that offer monetary compensation to landowners who set aside lands or adopt specific land management strategies or conservation practices. The study will identify the amount and types of Colorado lands in such programs, methods and costs of administering the programs, and program benefits to lands, the environment, and wildlife. The bill requires the department to consult with federal agencies and other interested parties regarding whether the state should replace any discontinued federal

landowner incentive conservation programs, and to present its findings to the House Agriculture, Livestock, and Natural Resources and Senate Agriculture and Natural Resources committees of the General Assembly before February 1, 2010. The bill also creates an agriculture industry task force to consult with the department regarding landowner conservation incentive programs and the impact of a state-administered landowner incentive conservation program on Colorado agriculture.

Information Technology

Interdepartmental data sharing. The Governor's Office of Information Technology (OIT) currently oversees the Data Protocol Development Council. The council assists the OIT in creating and implementing an interdepartmental data protocol to permit the efficient collection and sharing of information among state agencies. **House Bill 09-1285** replaces the council with the Government Data Advisory Board and the Education Data Subcommittee.

The Government Data Advisory Board will be comprised of four members appointed by the Governor and nine members representing specific state departments. The advisory board will assist OIT in developing the protocol, recommend a fee schedule for interdepartmental and external data exchanges, and recommend rules and procedures regarding data sharing among state agencies and with outside entities. The bill requires the advisory board to submit recommendations regarding protocols for data sharing to OIT before January 15, 2010, and annually thereafter. The recommendations will be considered by OIT prior to submission of a report concerning implementation of data protocols to the General Assembly by March 1, 2010.

The Education Data Subcommittee (a subcommittee of the advisory board) is comprised of at least 16 members from the education community, and will include 2 members of the advisory board. The subcommittee will make recommendations to the advisory board regarding the use and exchange of education data, including student transcripts, among public education agencies. The subcommittee will also make recommendations regarding the design and development of a statewide comprehensive P-20 education data system. The bill requires that the subcommittee submit its recommendations to OIT and to the advisory board by December 1, 2009, and every six months thereafter. OIT will consider the subcommittee's recommendations in developing its recommendations regarding the sharing of student data, including the creation of a P-20 education data system, and report to the General Assembly by March 1, 2010, and each subsequent March.

State Contracting and Procurement

The General Assembly considered five bills addressing contracting by the state and other public agencies.

Government contracting. Current law requires contractors on public works projects to provide a bond or some other form of surety to the public entity that awarded the contract. The surety must be at least half of the amount payable under the contract. **Senate Bill 09-248** allows contractors to provide (for public works contracts exceeding \$500 million) a bond or other surety, *including, but not limited to a letter of credit*, of not less than half of the amount payable under the contract in any calendar year.

Current law requires the development of a public, searchable database of personal services state contracts exceeding \$100,000 (centralized contract management system) in Colorado before June 30, 2009. **House Bill 09-1368**, which was, postponed indefinitely, would have made changes to the state's centralized contract management system, specifically excluding "grant contracts" and "loan contracts" from inclusion in the system. The bill defined grant and loan contracts as contracts between a state agency and another party where the agency acts as a conduit to distribute funds for the benefit of the other party or the public.

Senate Bill 09-297 modifies state law to address the approval of contracts for projects funded through the recently enacted American Recovery and Reinvestment Act of 2009. The bill:

- allows state agencies to request a waiver from the state procurement code where necessary to expedite the use of federal stimulus moneys or where strict adherence to the code would impede the state's ability to spend the money as required by federal law. Such waiver requests are subject to approval by the attorney general and the executive director of the DPA;
- authorizes the Department of Transportation to award a highway project contract to a low responsible bidder whose bid exceeds the department's project estimate by more than allowed under current law;
- directs the Public Utilities Commission to consider incentives for specified types of projects eligible for federal stimulus funding; and
- specifies that certain moneys received by the Governor's Energy Office, including federal stimulus moneys, shall be credited to the Clean Energy Fund.

State procurement. **Senate Bill 09-099** requires the DPA to implement a centralized electronic procurement system designed to provide more efficient delivery of state procurement services for use by state agencies, local governments, and vendors. The executive director of DPA is authorized to set and collect fees from vendors and local governments participating in the electronic procurement system to cover the costs of the system. These fees will be annually appropriated to the DPA for implementation and maintenance of the system.

Beginning on January 1, 2010, **Senate Bill 09-92** requires the Department of Personnel and Administration (DPA) to purchase vehicles that run on compressed natural gas (CNG) subject to availability of the vehicles and to adequate fueling infrastructure. The department must purchase such vehicles unless the base cost or life cycle cost of the vehicles exceeds by 10 percent or more the cost of a comparable nonflexible fuel vehicle. If DPA does not purchase a CNG vehicle due to cost, the department must purchase another type of flexible fuel or hybrid vehicle unless the cost of these vehicles is more than 10 percent over the cost of a comparable nonflexible fuel vehicle. SB 09-092 further requires DPA to report to the transportation committees of the General Assembly during the 2010 legislative session regarding its vehicle purchasing decisions.

State Employees

In 2009, the General Assembly considered legislation addressing annual leave transfers among state employees, legislation that would have imposed mandatory furlough days on state employees, and a bill that extends state employee group benefits to domestic partners of state employees.

Current law allows a state employee to transfer annual leave to another employee (leave

sharing) if the employee or a member of their immediate family experiences *a catastrophic, life threatening health condition* and the employee has exhausted all of his or her accrued annual and sick leave. **House Bill 09-1008** expands the reasons for which a state employee may transfer a portion of his or her annual leave to another employee to include *any unforeseeable life-threatening event beyond the employee's control*, but also requires that the recipient of the annual leave exhaust all paid leave, including compensatory time, prior to receiving the transfer.

House Bill 09-1221, which was postponed indefinitely, would have required that certain state employees take unpaid furlough days in state fiscal years 2008-09 and 2009-10. Under the bill, employees earning less than \$40,000 annually would have been required to take one furlough day per month; employees earning between \$40,000 and \$60,000 annually would have been required to take 1.5 furlough days per month; and employees earning in excess of \$60,000 would have been required to take two furlough days per month.

Certain state employees were exempted from HB 09-1221, including employees of the Colorado State Patrol, correctional officers, police officers, employees of the Department of Human Services providing hands-on care, and employees providing hands-on nursing care. The furlough requirement would have been applicable to both classified and non-classified employees in the executive and legislative branches of state government, but would not apply to employees of the judicial branch. Institutions of higher education would have had the option of implementing furloughs or achieving identical cost savings through alternative means under the bill.

Senate Bill 09-088 extends eligibility for coverage under state employee group benefit plans to domestic partners of state employees. The bill defines the term "domestic partner" as an unmarried person who is at least 18 years old, is of the same gender as the employee, is not a blood relative of the employee, and who has had an exclusive committed relationship of at least one year with the employee with the intent that the relationship last indefinitely. The bill applies to group benefit plans issued or renewed on or after July 1, 2010.

Public Employees' Retirement Association

The General Assembly enacted legislation merging the Denver Public Schools Retirement System into the Colorado Public Employees' Retirement Association (PERA), transferring state retirement plans administered by the Department of Personnel and Administration to PERA, and addressing retirement options for employees of the University of Colorado.

PERA merger with Denver Public Schools. **Senate Bill 09-282** creates the Denver Public Schools (DPS) division within the Public Employees' Retirement Association (PERA) as of January 1, 2010. Under current law, DPS is the only school district in the state not affiliated with PERA. However, the bill specifies that the debt obligations of DPS shall not become obligations of PERA, the state, or any other PERA-affiliated employer. SB 09-282:

- creates the DPS division as a separate division within PERA and keeps the funding for DPS separate from PERA's other trust funds;
- includes DPS charter schools within the DPS division;
- authorizes a non-voting ex-officio representative of DPS to serve on the PERA Board of Trustees;
- creates a separate Health Care Trust Fund for the DPS division;

- sets specific higher employer contribution rates for the DPS division relative to other PERA divisions;
- requires periodic adjustment of DPS division employer contribution rates to assure equalization of the DPS division's ratio of unfunded actuarial accrued liability over payroll to that of the PERA school division;
- addresses the administration of benefits for PERA members following the merger of the DPS retirement system into PERA;
- requires DPS division employers to make additional employer contributions – amortization equalization disbursements (AED) and supplemental amortization equalization disbursements (SAED) – for DPS members, as is required of all other PERA employers (The AED and SAED were enacted in recent years to assist in the reduction of the unfunded liability of PERA's trust funds);
- allows PERA members to move between divisions within PERA, including the existing school division and the new DPS division, without affecting their retirement benefits; and
- requires that the PERA Board of Trustees submit recommendations to the General Assembly regarding methods of responding to the decrease in the value of the association's assets on or before November 1, 2009.

State retirement plans. **Senate Bill 09-066** was recommended by the Legislative Audit Committee. The bill transfers the administration of two state employee retirement plans from the Department of Personnel and Administration to PERA, effective July 1, 2009. The two plans to be transferred are the state's defined contribution plan and the state's optional deferred contribution (457) plan. The bill also authorizes PERA to offer a 403 (b) supplemental tax-advantaged retirement savings plan to eligible employees, such as teachers and certain health care workers. The bill abolishes the State Deferred Compensation Committee and transfers the committee's administrative and fiduciary responsibilities to the PERA Board of Trustees. Under the bill, members of the state defined contribution plan will become members of the existing PERA defined contribution plan.

CU employee retirement plan options. **Senate Bill 09-157** specifies that certain employees of the University of Colorado (CU) are members of the university's optional retirement plan. These employees include the university president, chancellors, deans, other professionals exempt from the state personnel system, and faculty as determined by the Board of Regents. The bill also permits new CU employees who are members or inactive members of PERA to elect, within 30 days of being hired, to join either the Public Employees' Retirement Association or the university's retirement plan.

General Provisions

In 2009, the General Assembly considered legislation relating to the representation of the disabled community on Colorado state boards and commissions, and legislation creating incentives for the production of movies and media-related activities in Colorado.

State board representation — disabled persons. House Bill 09-1281 encourages the Governor to include representation by at least one person with a disability, a family member of a disabled person, or a member of an advocacy group for persons with disabilities in making appointments to the following state boards:

- Colorado Commission on the Aging;
- Colorado Transportation Commission;
- Colorado Children's Trust Fund Board;
- Mental Health Advisory Board for Service Standards and Regulations;
- State Board of Health;
- State Board of Housing;
- State Board of Human Services; and
- State Medical Services Board.

Film industry incentives. House Bill 09-1010 creates the Colorado Office of Film, Television, and Media in the Colorado Office of Economic Development. The bill charges the office to market the state as a location for film-making and media-related activities, and to coordinate efforts among production companies and government agencies involved in regulating these activities. The bill requires the office to conduct educational seminars to promote the film industry in Colorado.

Further, HB 09-1010 creates a performance-based incentive program for film production by companies that make expenditures for at least 75 percent of their production and payroll costs in the state. Companies that originate film production in Colorado may claim a performance-based incentive equal to 10 percent of qualifying local expenditures and payroll if the expenditures total at least \$100,000. Companies that do not originate film production in Colorado may claim an incentive of 10 percent of qualifying local expenditures and payroll if the expenditures equal or exceed \$1 million. Companies seeking the incentive must apply to the Office of Film, Television, and Media and provide detailed information relating to their expenditures upon completion of film production. The office is required to report annually to the General Assembly regarding the performance-based incentive program.

Finally, the bill creates the Colorado Office of Film, Television, and Media Operational Account Cash Fund which may receive appropriations, gifts, grants or donations, and \$600,000 annually of revenue generated from limited gaming activities in Colorado.