

CBA's 2022 Legislative Session in Review

BY TYLER MOUNSEY



This article provides an overview of the CBA's legislative efforts during the Colorado General Assembly's 2022 session.

On May 11, with just minutes left in its constitutionally mandated 120-day session, the 73rd Colorado General Assembly adjourned. Up to the last minute, the session teemed with vigorous conversations on hotly contested topics. There seems to never be enough time to resolve the legislative branch's myriad goals, but despite time constraints, the Colorado Bar Association succeeded in its ongoing work at the Capitol to support the justice system and Coloradans.

The pandemic continued to impact the session's operations and scope, but repeated COVID-19 exposures reinforced a significant increase in remote participation. According to Legislative Council staff, nearly 60% of all 2022 public testimony was delivered remotely.¹ While this reduced in-person interactions, it helped preserve the health of participants.

The 2022 Legislative Session Highlights

During the 2022 legislative session, 717 bills were introduced with 428 completed. The big-ticket topics that passed included HB 22-1326, SB 22-230, and HB 22-1355.

HB 22-1326: Fentanyl Accountability and Prevention

A priority public safety bill for both Republicans and Democrats, HB 22-1326 was one of the last bills to be completed after three months of deliberation. The final version of the bill, settled by conference committee, makes the possession of one to four grams of a substance that contains any amount of fentanyl a felony. Additionally, the bill includes appropriations to authorities to combat the fentanyl crisis and provide education on the drug's dangers.

SB 22-230: Collective Bargaining for Counties

This legislation was discussed for a long time before being introduced. Its final form allows the public employees of counties with populations of more than 7,500 to collectively bargain, but not strike. This measure excludes from the definition of "county" (among other entities) a city and a county, so Denver and Broomfield

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are not affected. The bill also maintains county rights and responsibilities, including those under a home rule county charter.

HB 22-1355: Producer Responsibility Program for Recycling

Under HB 22-1355, manufacturers of packaged goods will be charged a fee to go toward creating a statewide recycling program. The bill creates an advisory board consisting of members with expertise in recycling programs and knowledge

about recycling services in the state's various geographic regions.

The State Budget

While the above weighty topics loomed over the legislative calendar, the General Assembly wrestled with a large state budget. In 2021, Colorado received a \$3.8 billion influx of federal COVID-19 relief. About \$1 billion was spent during the 2021 legislative session, and another \$1 billion was reserved for future use, leaving about \$1.8 billion of one-time funds available in 2022. Because economic forecasts were not ideal, the legislature avoided future spending obligations and used the funds primarily to cover the start-up costs of new programs and to shore up infrastructure deficits. While many of these actions fueled partisan debates about spending, they also led to HB 22-233, which aimed to accelerate the return of TABOR refunds ahead of a possible recession. In the end, the General Assembly sent a roughly \$36.4 billion budget to the Governor for his signature.

The CBA Continues to Lead

The CBA stayed true to its previous legislative work in actively engaging legislators, providing our members as resources, and ensuring that we continue to be a leader in supporting legislation that enriches our community. Of course, we didn't do this work alone. Our members and Legislative Policy Committee worked together with bar associations across the state on a significant number of bills in providing research, testimony, and support, which resulted in a successful legislative session for the CBA.

CBA sections reviewed and monitored almost all of the session's 717 bills, and members participated in many legislative meetings and pull-asides. The CBA closely monitored 37 bills and took a formal position on 18 of them. We drafted three of those 18 bills and made 10 appearances concerning them before legislative committees to provide testimony. Highlights of these 18 bills are discussed below.

SB 22-045: Modifications to Public Benefit Corporation Act

As part of our Business Law Section's work to ensure support for the Colorado business

community, members worked directly with state legislators to modify the Public Benefit Corporation Act of Colorado. The changes championed by the CBA will put a new and favorable light on the attractiveness of public benefit corporations and the social and en-

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vironmental good that can result from these entities. SB 22-045 eliminated the requirement for approval of two-thirds of the outstanding shares to convert an existing corporation to a public benefit corporation. Additionally, it clarified that a director's ownership of stock does not inherently create a conflict of interest.

The bill passed with broad support and was one of the first bills of the session signed by the Governor.

HB 22-1053: Blockchain Agriculture and Uniform Commercial Code

The CBA is committed to supporting Colorado's rural communities. HB 22-1053 proposed such support, but as proposed, it would have had unintended consequences. HB 22-1053 aimed to promote farmers and ensure their recourse to developing technologies. However, the original proposal would have amended the Uniform Commercial Code in a way to impede prosperity in rural areas. Therefore, the CBA took an amend position, and after several meetings and testimony, it successfully removed any changes to the Uniform Commercial Code.

SB 22-060: Limit Homeowners Association Fee Increases for Common Elements

This legislative session saw a significant number of bills aimed at homeowners' associations (HOAs). While we did not comment on all of them, the CBA provided input on most, and in some cases pursued changes to protect Coloradans. Proponents of SB 22-060 drafted a bill that would focus on limiting how fees can be increased by any HOA. However, after testimony and continued stakeholder engagement, it was realized that the proposed technical fixes only benefitted a singular community yet impacted the entire state. As a result of CBA's Real Estate Section's input, the bill sponsor decided to postpone the bill indefinitely.

SB 22-086: Homestead Exemption and Consumer Debt

Homestead exemptions is a contentious topic that emerges repeatedly. Colorado's statutory homestead exemption exempts a portion of a homestead to satisfy a debt, contract, or civil obligation. This bill aimed to increase the exemptions from \$75,000 to \$300,000 if the homestead is occupied as a home by an owner, and from \$105,000 to \$350,000 if the homestead is occupied as a home by an owner who is elderly or disabled. With supporters and opponents differing on the best ways to encourage a prosperous housing market, testimony on this bill went well into the evening in both chambers. While political deals were struck, the CBA remained true to its members' input and continued to be a lone voice in support

of amendments that would help both sides. Our language gained significant traction, but political pressure pushed the bill forward before our recommendations could be implemented. While the bill passed and was signed, the CBA stood out as a resource for balanced, inclusive language that was well-received by our partners.

HB 22-1271: Rights of Person Protected by Legal Guardian

The rights of people who are protected by legal guardians is a topic that the CBA has worked on many times before. HB 22-1271 addressed this issue, and there was significant stakeholder engagement before the session. Despite the unprecedented inclusion of the CBA's Elder Law Section and Disability Committee from the start of the process, the bill introduced was still technically problematic and created multiple conflicts. The CBA took an oppose position but remained receptive to bill improvements over the interim. Ultimately, the bill didn't pass, but we remain committed to supporting appropriate future legislation in this area.

SB 22-092: Updated Colorado Probate Code

The CBA worked closely with legislators to produce concise and effective probate code amendments. SB 22-092 clarified how property passes when a decedent dies without a will and the estate does not pass to a surviving spouse or designated beneficiary pursuant to existing law. In that situation, it details how intestate succession is distributed. This bill garnered broad support and passed easily through both chambers to be signed by the Governor.

SB 22-122: Uniform Voidable Transaction Act

The history of uniform voidable transactions legislation dates back almost a decade at the state legislature. Amid disagreement about how to best approach the subject, the CBA was able to build a consensus and get a Uniform Law bill introduced in 2022. Unfortunately, the national Uniform Law Commission took the position that the bill didn't fit its nationally established guidelines for Uniform Laws, and it was postponed indefinitely. However, we

continue to pursue this bill and explore how to incorporate it into our 2023 legislative agenda.

HB 22-1367: Updates to Employment Discrimination Laws

The Colorado Women's Bar Association (CWBA) identified a need to ensure that Colorado workers are sufficiently protected by existing discrimination laws. Of its many significant changes, the bill redefined the time within which the Civil Rights Commission may consider a complaint. Instead

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of 270 days, with the possibility of granting parties an additional 180-day extension, the Commission now has 450 days to act or lose jurisdiction over the complaint. Additionally, HB 22-1367 expanded the definition of employee to include domestic workers. The CBA followed the CWBA's lead and supported the bill. It received overwhelming support and was sent to the Governor, but as of this writing no further action has been taken.

SB 22-201: Commission on Judicial Discipline

SB 22-201 received widespread media coverage. It tackled the challenging task of amending the judicial discipline process. The bill secured independent funding for the Commission on Judicial Discipline and creating an interim committee, two critical initial tasks. The CBA, along with the diversity bar associations, provided input as the bill developed. While there were many amendments to and versions of the bill, the final passed version represented the collective efforts of bill sponsors, bar associations, and the CBA. SB 22-201 is an important first step toward change in the judicial discipline process. Work in this area remains ongoing, and the CBA is currently engaging stakeholders and legislators to help develop sound policies.

Looking Forward to 2023

In 2022, the CBA built on its previous work in creating and maintaining long-lasting and fruitful relationships at the Capitol. This organizational effort is only possible with the commitment and support of our members.

As we move forward into the already developing 2023 session, the CBA's legislative team encourages you to connect with your sections and get involved. The CBA remains dedicated to promoting all Colorado attorneys and welcomes renewed and new engagement from our community. 



Tyler Mounsey is the CBA director of legislative relations. Readers are encouraged to contact him to receive periodic email updates during the legislative session or any time they would like more information about bills or other legislative matters that may relate to or affect the legal profession and the practice of law—tmounsey@cobar.org.

NOTE

1. Coltraine, “How crime, Polis, and a workforce shortage shaped Colorado lawmaking in 2022: This is the legislature's brain on election year,” *Denver Post* (May 12, 2022), <https://www.denverpost.com/2022/05/12/colorado-2022-legislative-session-analysis>.