

2020 Legislative Session Report for BOMA Colorado

The second regular session of the 72nd General Assembly in Colorado was one without precedent. The session began on January 8th, 2020 with Democratic leadership putting forward an ambitious agenda to provide momentum heading into the election season. Those goals were largely derailed when the legislature temporarily adjourned on March 14th and did not return until May 26th. After three weeks of “chaos and compromise” ([per the Colorado Sun](#)) the legislature adjourned Sine Die on June 15th.

The session’s extension to June 15th was made possible by a Colorado Supreme Court decision stating that the 120 days of legislative work do not have to be consecutive during a public health emergency. This ruling could potentially impact the calendar in 2021 and beyond, since the ability to not count weekends and holidays toward the 120-day limit would allow session to extend well into June as long as the public state of emergency remains.

When the General Assembly returned on May 26th they had to deal with both the existing bills and a large slate of new bills introduced to address COVID relief and police reform, in addition to the Constitutional requirement to pass a balanced budget before the end of June while dealing with a \$3.3 billion general fund shortfall. In total, the legislature saw 651 bills introduced in 2020 (compared to 598 in 2019), 332 of which went to the Governor for his signature.

Key Issues at the State Legislature

Robust paid family/medical leave, a public health care option, and repealing the death penalty were at the top of the stated agenda of Democratic leadership when the 2020 session began. Of those only death penalty repeal crossed the finish line prior to the mid-session adjournment. When the legislature returned the focus had shifted, with several new big bills earning priority status.

Some of the legislation that garnered the most attention this session includes:

[SB 20-217: Enhance Law Enforcement Integrity](#)

This bill was introduced after the temporary adjournment (in response to the killing of George Floyd and the subsequent protests) and was passed with bipartisan support. The bill was passed in two weeks and signed by the Governor on 6/19/20 (Juneteenth). The bill enacts a number of police reforms, including requiring body cameras, prohibiting choke holds, requiring observing officers to intervene if inappropriate force is used, and mandating reporting of certain incidents to the public.

[HB 20-1420: Adjust Tax Expenditures for State Education Funding](#)

As introduced, this bill was a sweeping rollback of nine tax exemptions utilized by businesses. The business community revolted and Governor Polis threatened a veto. The bill was pared back in the second chamber (generating \$96m instead of \$278m) but still eliminates several of the tax exemptions that were created by the federal CARES Act, plus one corporate deduction created by the 2017 federal tax cuts. The Governor indicated he was supportive of the modified bill, but a coalition of 14 business organizations have asked him to veto. The Governor recently signed HB1420.

HB 20-1360: Budget (the Long Bill)

When legislators returned to work after 10 weeks of COVID-related business closures they were faced with a \$3.3 billion budget shortfall, which required at 25% reduction in General Fund spending. CARES Act money helped to offset some of the deficit, but drastic cuts were still needed and legislators are anticipating at least a \$1 billion shortfall next year. This has led to increased interest in generating funds through removing tax exemptions and raising fees.

SB 20-215: Health Insurance Affordability Enterprise

The bill creates the Health Insurance Affordability Enterprise and extends and refinances the Reinsurance Program. The enterprise is funded with a newly established TABOR-exempt health insurance fee and annual General Fund transfer. The primary function of the affordability fee is to increase the number of individuals who are able to purchase health benefit plans in the individual market by providing financial support for certain qualifying individuals.

Bills of Interest to BOMA

[*Please click here for the full list of bills*](#)

FAILED – HB20-1046 – Private Construction Contract Payment Requirements

This bill was brought by the American Subcontractors Association (ASA) Colorado. The bill would have set 5% retainage and required property owners to release retainage within 60 days after contract is completed for satisfactorily completed work. After some stakeholder engagement and feedback from stakeholders, ASA decided with the bill sponsors lay the bill over for the 2020 session and work with stakeholders on possible legislation for the 2021 legislative session. BOMA voiced concerns with HB20-1046 and had an opposed position on the bill. BOMA will continue to monitor as similar legislation is likely to be introduced in 2021.

FAILED – HB20-1342 – Property Tax Valuation Appeals

BOMA was working with bill sponsors and proponents on amendments to this bill prior to the COVID-19 legislative break. Once the legislature returned from the break, this bill was not deemed a priority and was laid over in the House Business Affairs Committee.

PASSED - SB 20-055 – Incentivizing Development of Recycling End Markets

This bill came out of the Zero Waste and Recycling Interim Committee. The bill directs CDPHE to convene stakeholders to inform the department regarding a structure and governing guidance for a recycling market center to support the development of end-market businesses within the state. BOMA supported this bill.

FAILED – [SB20-138](#) – Consumer Protection Construction Defect Time Period

This bill would have increased the statutory limitation period for construction defect claims from 6 year to 10 years and would have allowed tolling of the limitation period on any statutory or equitable basis. BOMA opposed SB138 along with a large coalition of business, construction and homeowner interests.

PASSED – [SCR20-001](#) - Repeal Property Tax Assessment Rates (Repeal Gallagher)

The concurrent resolution submits to the voters on the November 2020 ballot an amendment to the Colorado Constitution to repeal the Gallagher amendment which requires the legislature to set the residential assessment rate in order to maintain the statewide proportion of residential property as compared to non-residential / commercial property tax assessment rate of 29%. BOMA along with other business interest asked for a legal opinion that provides assurance that the legislature cannot raise property assessment rates without a vote of the people due to TABOR. SCR001 passed and will be on the November ballot for the voters to decide. If approved by the votes, current assessment rates would be locked as they are now.

Other Bills:

There were several other bills that BOMA spent significant time working on through stakeholder meetings and meetings with legislators that were not introduced in the 2020 Legislative Session.

- Rep. Kipp (D-Ft. Collins) had planned to introduce legislation to require statewide commercial building energy benchmarking and the bill would also set energy targets with significant monetary penalties. BOMA took a lead role in working with Rep. Kipp and bill proponents to voice industry concerns but to also outline how benchmarking alone is working in local communities in Colorado and other states (without setting high targets and monetary penalties).
- Sen. Gonzales was considering eviction moratorium legislation that would have limited residential and commercial property owner's rights and placed a 120 unsustainably long eviction moratorium. After feedback from BOMA and other stakeholders, this legislation was not introduced.

2020 Election – State Legislature

Democrats currently control both chambers of the General Assembly. They hold a broad 41-24 advantage in the House, and there is no expectation that there will be a significant shift in that majority following the 2020 election.

The Democrats hold a much slimmer 19-16 margin in the Senate. If Republicans hold their current seats and pick up two seats currently held by Democrats they would gain the majority. It's possible, but difficult – a lot depends on how national politics are trending. President Trump does not currently have a high approval rating in Colorado.

Some of the seats R's need to keep are "open" seats due to term limits or the current elected official not running for re-election.

Tier 1 Targets:

SD 8 – Bob Rankin (R) / Karl Hanlon (D) – vacancy went to Rankin; formerly Baumgardner

SD 19 – Rachel Zenzinger (D) / Lynn Gerber (R)

SD 25 – Kevin Priola (R) / Paula Jane Dickerson (D)

SD 27 - Chris Kolker (D) / Suzanne Staiert (R) – open (Tate)

SD 26 – Jeff Bridges (D) / Robert C Roth (R)

SD 35 – Cleave Alan Simpson Jr. (R) / Carlos Rey Lopez (D) – open (Crowder)

Tier 2 Targets:

SD 10 – Randal McCallian (D) / Larry G. Liston (R) – open (Hill)

SD 17 – John Michael Kelly (D) or Sonya Jaquez Lewis (D) – open (Foote)

SD 23 – Sally Boccella (D) / Barbara Kirkmeyer (R) – open (Marble)

SD 31 – Chris Hansen (D) / Doug Townsend (R) – vacancy went to Hansen, formerly Court

The current Democratic-held seats with the most competitive districts are SD 19 and SD 26. The current Republican-held seat with the most competitive district is SD 25.

Media Summaries

The Colorado Sun: [Chaos and compromise...ends with a flurry of big bills](#)

Colorado Politics: [Legislature Wrapup](#)

Denver Post: [After pandemic and protests, lawmakers close the books on 2020 session](#)

The Colorado Sun: [...additional \\$1b in reductions looms on 2021 horizon](#)

Colorado Politics: [Colorado lawmakers ditch expectations in dizzying re-session](#)

Colorado Politics: [Session marked by what didn't happen](#)

Colorado Politics: [Legislature 2020 – by the numbers](#)

Colorado Politics: [Legislature 2020 – winners & losers](#)

The Colorado Sun: [How lawmakers closed a \\$3b shortfall...and why it led to tears](#)

