



American Society of Landscape Architects - Colorado

2011 Legislative Session Wrap-up

The Sixty Eighth General Assembly of Colorado ended the 2011 session with a bit of a whimper. The biggest reason for the lackluster year was the fact that the house and Senate were held by different parties for the first time in 10 years. Added to that the House Republicans held a majority by one vote margin making it difficult to hold the party line on several issues as a single defecting Republican could sway the balance.

The session began amidst the revelation that the budget deficit was estimated at 1.1 Billion dollars. This was on the heels of the last several years also having significant shortfalls and painful budget cuts. This year was the largest. Now, however, all of the budget tricks were gone. We couldn't delay a payday or a pension contribution anymore to cover these sums. Also, the Federal Government was done backfilling the budget holes. They seemed in as bad a position as the state. We were looking at real cuts. Further, with the state of the economy slow and unemployment not dropping, tax increases were off the table.

Toss on top of this the state's constitutional duty to redraw our congressional districts this year; we had a real political firestorm brewing. As it tunes out, the budget was not as bad as feared. The final budget cuts were only 520 Million dollars. Even with that, the joint budget committee (the specially created legislative committee from both houses tasked with writing the annual budget) couldn't reach an agreement on the budget cuts and the two houses remained divided on the budget until late in the session.

The House and Senate never did come to an agreement on the Congressional boundaries. That matter has gone to the courts where a district court judge will decide how to create seven congressional districts that meet all of the requirements for such districts. The legislature also dropped the ball on initiative reform. It has long been hoped that some better way of managing the citizen initiative process could be developed in Colorado so that every idea brought up by a disgruntled elector wouldn't have to wind up in the state constitution as it does now. That provision, SCR11-001, died an unceremonious death when it was laid over in the Senate and could not be heard before the legislature adjourned. That issue has now also gone to the courts in the form of a lawsuit challenging the Colorado Constitution as not providing for a representative form of government any longer as required by the US Constitution.

At the end of the session many considered it a success by what we didn't have to deal with. The fringe bills from either party quickly died in the opposing house and there was little risk of any radical reform. This left the Governor in the enviable position of only seeing bills on his desk for signature that had broad consensus.

As for the issues of interest to ASLA, I have attached the list of bills we followed and the final outcome. We will continue to watch over the summer as the revenue forecasts come in. If the budget situation continues to worsen and further cuts to education seem unpalatable, regulated professions could wind up on the chopping block as a way to find money. Other than that, we will continue to monitor those issues that could impact the industry.

BILL [HB11-1013](#)

CONCERNING EXEMPTIONS FROM PROFESSIONAL REGULATION FOR ACTIVE DUTY MILITARY PERSONNEL.

Short Title: Exempt Active Military Prof Regulation
Sponsors: SCHAFER S. / BACON

The bill exempts military personnel from licensing, certification, and registration fees and from continuing education and professional competency requirements for the period of federally funded service in a war, emergency, or contingency and for 6 months after the date of discharge so long as the period of service is 120 days or longer.

Status
04/13/2011 Governor Action - Signed

BILL [HB11-1020](#)

CONCERNING THE REQUIREMENT THAT A SUBCONTRACTOR PROVIDE NOTICE OF WORK PROVIDED ON A JOB SITE.

Short Title: Subcontractor Notice For Mechanics' Lien
Sponsors: BALMER

The bill requires a person providing goods or services to a job site to provide notice to the owner, or reputed owner, or to the superintendent of construction, agent, architect, or financing institution or other person disbursing construction funds, within 20 days after the person first furnishes goods or services to the job site as a prerequisite to the validity of a mechanic's lien claim. A principal contractor and any subcontractor must include in any subcontract with another person to furnish goods or services to the job site a notice of the requirement to provide the notice as a prerequisite to the validity of a mechanic's lien claim. In addition, the bill requires the principal contractor or the person who contracted with the principal contractor to require lien waivers from the noticing party for the goods or services provided by the party and to issue joint checks to the noticing party and the party with whom he or she contracted.

Status
04/19/2011 House Committee on Legislative Council Postpone Indefinitely

BILL [HB11-1044](#)

CONCERNING THE PROCEDURE FOR THE REVIEW OF A PROPOSAL TO REGULATE AN UNREGULATED PROFESSION OR OCCUPATION.

Short Title: Sunrise Process Modifications
Sponsors: HOLBERT / RENFROE

Under current law, persons proposing the regulation of a currently unregulated professional or occupational group must submit the proposal to the department of regulatory agencies (department), and

the department normally must conduct a sunrise review and analysis of, and issue a sunrise report and recommendations on, the proposed regulation within 120 days after the proposal was submitted.

However, the department need not conduct a sunrise review of a proposal if the department finds that:

- * The proposed regulatory scheme would regulate less than 250 people;
- * The department previously reviewed the same professional or occupational group and determines it would not change its recommendations contained in the prior review;
- * A majority of states regulate the same profession or occupation; or
- * The unregulated profession or occupation poses an imminent threat to public health, safety, or welfare, in which case the department is to promptly notify the proponents and the general assembly and recommend regulation of the profession or occupation. When the department declines to conduct a review, current law requires the department to notify the proponents and the general assembly of its decision, and the proponents may pursue legislation to regulate the profession or occupation during the next 2 regular legislative sessions of the general assembly or, if the notice is issued during a regular legislative session, legislation may be presented during that legislative session as well. The bill modifies the sunrise review process for analyzing proposals to regulate an unregulated professional or occupational group submitted on or after January 1, 2011, as follows:
 - * Requires regulation proponents to submit a proposal by December 1 of any given year in order to obtain a review and report by October 15 of the following year;
 - * Requires the department to issue sunrise reports no later than October 15 on proposals submitted by December 1 of the prior year;
 - * Eliminates the ability of the department to decline to review a proposal in all cases except when the department has previously reviewed the same proposal, issued a report less than 26 months before the current proposal was submitted, and finds that its conclusions would be the same as in the initial report, in which case the department may reissue its original report by October 15 of the year following the year in which the proposal was submitted;
 - * Restricts the general assembly to consideration of not more than 5 measures to regulate a profession or occupation during any one legislative session; and
 - * If a report is issued or reissued during a legislative session, eliminates the ability of proponents to pursue legislation to regulate the profession or occupation during that same legislative session. The changes to the sunrise process do not affect proposals to regulate a profession or occupation that were submitted prior to January 1, 2011.

Status

02/28/2011 Senate Committee on Judiciary Postpone Indefinitely

BILL [HB11-1100](#)

CONCERNING THE CONSIDERATION OF MILITARY EXPERIENCE TOWARDS QUALIFICATION FOR PROFESSIONAL LICENSURE AND CERTIFICATION, AND MAKING AN APPROPRIATION THEREFOR.

Short Title: Military Experience License Certificate

Sponsors: LOOPER / MORSE

The bill requires the director of the division of registrations and the state examining and licensing boards to accept education, training, or service completed by an applicant for licensure or certification while serving in the military toward the qualifications required to receive the license or certification.

Status

05/09/2011 Governor Action - Signed

BILL [HB11-1115](#)

CONCERNING THE PAYMENT OF RETAINAGE IN CONSTRUCTION CONTRACTS INVOLVING PUBLIC ENTITIES.

Short Title: Public Entity Construction Retainage

Sponsors: PRIOLA / TOCHTROP

Currently, a public entity is allowed to withhold payment for up to 10% of the value of completed work on the first half of a construction project to ensure that the work meets specification. The bill changes that amount to 5% of the value of the entire project. A public entity must make a final settlement within 45 days after the contract is completed. If a public entity occupies or begins to use all or a portion of the construction, the public entity must release the withheld percentage or portion within 45 days after occupancy or use. The entity may retain double the amount of money necessary to cover any work that is not up to contract specifications.

Status

05/09/2011 House Considered Senate Amendments - Result was to Concur - Repass

BILL [HB11-1129](#)

CONCERNING THE CREATION OF CERTAIN PROCUREMENT PREFERENCES TO BE APPLIED IN THE STATE PROCUREMENT PROCESS.

Short Title: State Procurement Preferences

Sponsors: PABON

The bill modifies the procurement code to create preferences for products and services provided by Colorado, domestic, and veteran vendors that governmental bodies shall apply when considering responses to procurement solicitations. Low tie bids - consideration of Colorado workforce and supplies. If, in response to an invitation for bids for a supply contract, low tie bids from 2 resident bidders or 2 nonresident bidders are received, the bill requires the procurement officer to take into consideration in awarding the contract the bidder's employment of a Colorado workforce and the bidder's use of supplies produced or manufactured in Colorado. Use of domestic iron, steel, and manufactured goods. The bill requires that, if a governmental body's project for the construction, alteration, maintenance, or repair of a public building or public work is funded in whole or in part by state or federal moneys, all of the iron, steel, and manufactured goods used in the project shall be produced in the United States (U.S.). The bill specifies that a waiver of this requirement is allowed if the iron, steel, or manufactured goods are not produced in reasonably available quantities, quality, or cost to satisfy the needs of the governmental body. Veterans' preference. When a contract for supplies or services is to be awarded through competitive sealed bidding, the bill requires a governmental body to give a bidder a 5% preference if the bidder is at least 51% veteran-owned or has a workforce that is at least 51% comprised of veterans. If the contract is to be awarded through a request for proposals, the bill requires that 5% weight be given to an offeror that is at least 51% veteran-owned or has a workforce that is at least 51% comprised of veterans. The bill requires a contractor that claims the veterans' preference to submit certification of the vendor's veteran status. The bill also requires the executive director of the department of personnel (director) to create the certification process through the promulgation of rules. Preference for domestic products. The bill requires any procuring governmental body that issues an invitation for bids, a request for proposals, or any other

solicitation for a contract for the purchase of procured products (products) to give preference to products that have been manufactured in the U.S. when awarding the contract. The director or the director's designee may grant a waiver of the preference requirements on a case-by-case basis if the required products are not manufactured in the U.S. in reasonably available quantities, quality, or cost to satisfy the needs of the procuring governmental body. The bill requires each contractor awarded a contract by a governmental body through the use of the preference to certify that the products provided pursuant to the contract are manufactured in the U.S. and requires the director to create a precertification process. The bill specifies that nothing in the procurement preference shall be construed to contradict any existing U.S. treaty, law, agreement, or regulation and specifies penalties if a contractor is awarded a contract through the use of the preference and knowingly supplies products under the contract that are not manufactured in the U.S.

Status

02/25/2011 House Committee on Economic and Business Development Postpone Indefinitely

BILL [HB11-1160](#)

CONCERNING THE ESTABLISHMENT OF A GREEN BUILDING INCENTIVE PILOT PROGRAM ADMINISTERED BY THE GOVERNOR'S ENERGY OFFICE TO INCENTIVIZE THE MAKING OF ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING RESIDENCES WITH CURRENT HOME ENERGY RATINGS BELOW MINIMUM STANDARDS FOR PEOPLE WHO PURCHASE HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION.

Short Title: Gov Energy Ofc Green Bldg Incent Prog

Sponsors: GEROU / JAHN

The bill requires the governor's energy office (office) to create a green building incentive pilot program whereby the office awards grants to qualified homebuyers who are selling current primary residences with home energy ratings below minimum standards and purchasing highly efficient new residential construction. The grant allows the qualified homebuyer to make improvements to the homebuyer's current primary residence for purposes of increasing the residence's energy efficiency. The office is to award grants from federal funds transferred to the office that the office has already received or may receive in the future. The office may require additional information to secure future federal funds.

Status

05/04/2011 Governor Action - Signed

BILL [HB11-1204](#)

CONCERNING A REQUIREMENT THAT PUBLIC SCHOOL STRUCTURES SATISFY MINIMUM ENERGY-EFFICIENT DESIGN STANDARDS.

Short Title: Energy Efficient School Buildings

Sponsors: KERR A. / JOHNSTON

After January 1, 2012, each school district and each district charter school shall ensure that each project to construct or significantly redesign a building or structure, at a minimum, satisfies one of the following conditions: (1) The design and construction plans for the project ensure that the resulting building or

structure will qualify for the federal energy star label and, upon completion of the project, the school district or district charter school shall acquire such a rating for the resulting building or structure as a result of an audit performed by a qualified energy efficiency auditor; (2) The school district or district charter school shall consult with the governor's energy office concerning the best building practices for the construction or redesign project, which consultation shall commence before the commencement of any actual building or construction and shall continue until the completion of the project; or (3) The school district or district charter school shall designate the execution of the project to a design and construction team that includes at least one person who has expert knowledge of energy-efficient design and construction practices, who provides professional technical assistance to the school district or district charter school to facilitate the project, and who may be a representative of a local electrical utility.

Status

03/02/2011 House Committee on State, Veterans, & Military Affairs Postpone Indefinitely

BILL [HB11-1233](#)

CONCERNING THE CREATION OF PREFERENCES FOR CERTAIN BIDDERS IN STATE CONTRACTING.

Short Title: Bidder Preferences In State Contracting

Sponsors: WILLIAMS A.

The bill creates a preference for resident bidders in state contracts for construction projects. The bill specifies that a state agency shall award a construction contract to the low resident bidder, so long as the bid does not exceed the low nonresident bidder's bid by more than 5%. A bidder that wants to qualify for the preference is required to certify to the state agency that invited the bid that the bidder is a resident bidder. A bidder who is awarded a construction contract on the basis of the preference is prohibited from subcontracting more than 20% of the work to nonresident contractors. If a state agency determines that compliance with the requirements of the resident bidder preference would conflict with the requirements of federal law, the state agency may award the contract to the low bidder without consideration of the residency of the bidder. The bill requires this determination to be made in writing and publicly posted for review by resident and nonresident bidders prior to awarding the contract.

Status

02/24/2011 House Committee on Economic and Business Development Postpone Indefinitely

BILL [SB11-167](#)

CONCERNING THE CREATION OF EFFICIENCIES IN THE STATE REGULATORY SYSTEM.

Short Title: Efficiencies In State Regulatory System

Sponsors: KOPP

The bill requires the committee on legal services to appoint a task force (COLS task force) to review the state's regulatory system and make recommendations related to whether:

* The current system creates a regulatory advantage to one segment of an industry at the expense of another;

* The existing availability of cost benefit analysis needs strengthening in order to produce meaningful measures of adverse impacts on consumers and private industry;

- * The enforcement practices of the current system, if any, create perverse incentives for unreasonably punitive fines and penalties on private parties;
- * Economic conditions merit a downsizing of the regulatory body with resulting reduction of financial compliance costs;
- * A particular regulated industry is regulated in an outmoded form of regulation that is no longer advisable;
- * Currently regulated industries are regulated by other means;
- * Continued regulation of the regulated industry is justified;
- * The current system regulates fewer businesses than it did in a previous state fiscal year; and
- * Compliance costs could be reduced or eliminated at no risk to the public welfare or environment and at no risk of creating or protecting a monopoly. The COLS task force must report to the committee on legal services by August 6, 2012, and the committee on legal services must then recommend to the general assembly such legislation regarding the findings and recommendations of the COLS task force as may be necessary. The bill also addresses the circumstances under which staff assistance will be available for the COLS task force.

Status

04/19/2011 Senate Committee on Legislative Council Postpone Indefinitely

Fiscal Notes Status: Fiscal impact for this bill

BILL [SCR11-001](#)

Short Title: Ballot Measures

Sponsors: SHAFFER B. & ... / MURRAY & ...

*** No bill summary available ***

Status

03/11/2011 Senate Considered House Amendments - Result was to Laid Over Daily