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FOLLOWING THE LEADERS

An up to date review of Colorado government and politics as they relate to the clients of Axiom Strategies Inc.

“The best weapon against an enemy is another enemy.” Friedrich Nietzsche

86 Days to Sine Die

Pinnacol Bills and Deals

As the Governor’s Office moves forward in exploring a deal to give Pinnacol Assurance autonomy from the state, the legislature continues to move forward with bills targeting the workers’ compensation provider that came out of the Interim Committee to Study Pinnacol Assurance. The state has signed an agreement with Pinnacol to be represented by Morgan Stanley in the potential transaction, and details are currently in the works. Many believe that a separation transaction, which would bring significant funds to the state, would establish Pinnacol as being owned by its policyholders, and put an end to the attempted money raids, repetitive costly audits and negative legislation that the General Assembly has sought.

Two pieces of such legislation have begun making their way through the legislative process. HB 1009- Pinnacol Board of Directors by Rep. Joe Miklosi (D-Denver) and Sen. Mary Hodge (R-Brighton) passed the House Judiciary Committee 6-5. The bill would increase the size of the Pinnacol Board of Directors from nine to 11, and require that one position be filled by an injured worker and another be filled by a physician, as well as require open public notice and testimony at board meetings. Opponents of the bill have expressed concerns that the bill does not adequately define an injured worker and that there is a balance of different points of view on the current Board with three employee representatives required, and noted that Pinnacol is already subject to open meeting laws.

The second bill moving, HB 1012 - Limit Surveillance Workers' Comp Claims by Rep. Sal Pace (D-Pueblo) and Sen. Morgan Carroll (D-Aurora) limits the use of surveillance in insurance investigations. Additionally, an injured employee who

discovers he or she is under surveillance could request an expedited hearing before a prehearing administrative law judge who may issue an injunction against the surveillance, a completely new step in the process. Many concerns have been raised about the effect of taking away an important tool for fighting fraud and abuse in the worker's compensation system. Additionally, opponents argue that between the exceptionally high bar to begin surveillance and the expedited hearing to prohibit it, the bill is essentially a free pass for those who would seek to game the system. The bill passed the House Judiciary Committee 6-4, but is vehemently opposed by the business community for the potential cost it may add to workers' compensation in Colorado.

The three Senate bills are waiting to be heard in the Senate. The seventh has yet to be introduced because of the exorbitant potential costs to the system and unprecedented policy it sets forth.

Tax Exemptions Receive Final Passage

The Senate gave final approval to the package of bills eliminating and suspending tax credits and exemptions this week. Bills amended in the Senate will be heard in the House today for consideration of amendments before making their way to the Governor's desk. As the bills move closer to final approval, chatter that legal challenges will be mounted over several of tax eliminations grows louder.

HB 1193 – Sales Tax Out-of-State Retailers by Rep. Jack Pommer (D-Boulder) and Sen. Rollie Heath (D-Boulder) was amended significantly in the Senate. Originally, the bill would have required an out-of-state seller like Amazon.com or Overstock.com to collect sales tax on sales to Colorado consumers if the seller advertises via Colorado residents. Online retailers have pulled out of other states that passed such legislation, and affiliate marketers argued the harm that the bill would cause to Colorado companies. As amended in the Senate, the bill would require out-of-state companies to give the state a list of Colorado customers and their total purchases each year, allowing the Department of Revenue the opportunity to try to collect those sales taxes. The new version of the bill has raised privacy concerns, and questions over the constitutionality of the legislation still remain.

Health Care Package Introduced

Governor Ritter announced the bills in his legislative health care package this week. Ten bills, all of which have been introduced over the past weeks, and an executive order focus on three main areas of health care: increasing cost-savings, efficiencies and accountability, improving public and private systems, and protecting and improving care for women. For increasing efficiencies and accountability, the Governor has pinpointed SB 167 – Medicaid Efficiencies Act by Sen. Betty Boyd and Rep. Jim Riesberg and HB 1330 – All-Payer Database by Reps. John Kefalas and Daniel Kagan and Sen. John Morse. Additionally, an Executive Order directs the Department of Health Care Policy and Financing, the Department of Revenue, the Department of Public Health and Environment, and the Governor's Office of Information Technology to enter into data sharing agreements for the purpose of electronically verifying citizenship and identity of persons applying for Medicaid and CBHP.

In order to establish understandable and standardized information, Ritter has identified HB 1166 – Insurance Policies Written in Plain Language by Rep. John Kefalas

and Sen. Linda Newell, HB 1242 – Uniform Application in Individual Insurance Market by Rep. Dennis Apuan and Sen. Lois Tochtrop, HB 1332 – Standardized Insurance Coding by Rep. Joe Miklosi and Sen. Chris Romer, and HB 1004 – Standardization of Health Insurance Info to Consumers by Rep. Tom Massey and Sen. Joyce Foster.

HB 1008 – Gender Fairness in Health Insurance by Rep. Sue Schafer and Sens. Gail Schwartz & Morgan Carroll, and HB 1252 – Updating Mammography Benefits by Rep. Diane Primavera and Sens. Gail Schwartz & Betty Boyd have been introduced with the intent to protect women and children. Finally, SB 058 – Nursing Loan Forgiveness Program by Sen. Abel Tapia and Rep. Sara Gagliardi and HB 1138 – Health Care Jobs for Colorado by Rep. Sara Gagliardi and Sen. John Morse are the final bills identified as part of the package.

Campaign Finance Questions to Supreme Court

The Colorado Supreme Court will be asked to weigh in on the constitutionality of two of Colorado's campaign finance laws in light of the recent U.S. Supreme Court ruling allowing corporations and unions to directly spend on campaign ads. Secretary of State Bernie Buescher believes that ruling invalidates two parts of Colorado's voter-approved Amendment 27 that prohibit corporations and unions from financing political advertisements. In a letter to Colorado's high court, Gov. Ritter expressed concern that until the law is clarified, candidates and donors will face uncertainty on the legality of their activities. A House Joint Resolution requesting the Colorado Supreme Court's opinion on the matter has been passed by both legislative chambers, with the intent of being able to pass any necessary conforming legislation prior to the end of the 2010 legislative session. However, a ruling by the Colorado Supreme Court could still be challenged.

Beer Bill Passes House Committee

HB 1186 - Let Convenience Stores Sell Malt Liquor by Rep. Larry Liston (R-Colorado Springs) passed the House Business Affairs Committee this week on a 7-4 vote. The legislation to allow convenience stores to sell full-strength beer (as opposed to 3.2 percent beer) pits the convenience stores against liquor stores and brewers along with manufacturers and wholesalers. Brewers are concerned that the microbrew market will suffer as convenience stores stock nationally recognized brands, and liquor stores worry for their market share as name brand convenience stores benefit from corporate backing for promotion and advertising. The House Business Affairs Committee was the first of several steps before the bill could make it to the House floor – the legislation now moves to the House Finance Committee this week for another hearing, and then the House Appropriations Committee as well.

Right to Trespass

A bill to allow commercial outfitters the right to float on rivers raising concerns over private property rights passed the House Judiciary Committee and received initial approval on the House floor this week. Property owners and the agricultural community opposing HB 1188 – Clarify River Outfitter Navigation Right by Rep. Kathleen Curry (I-Gunnison) and Sen. Mary Hodge (D-Brighton) believe the law is already clear that rafters may pass through private property as long as they do not touch or use the private land.

The bill would permit “incidental contact” and “minimum possible use” but does not define those subjective terms, leaving stakeholders without a clear understanding of whether or not a rafting company is complying with the law.

Introduced Bills

House	346
Senate	168
Total	514