

Legislative Report

CCI Meeting Reminder

All Steering Committee meetings are held at CCI.

Friday, March 7

- 9:00 – 10:30 a.m.
Tourism, Resorts, &
Economic Development
- 10:30 – 12:00 p.m.
General Government
- 12:30 – 2:00 p.m.
Taxation & Finance
- 2:00 – 3:30 p.m.
Transportation &
Telecommunications

Friday, March 14

- 9:00 – 10:30 a.m.
Public Lands
- 10:30 – 12:00 p.m.
Agriculture, Wildlife, & Rural
Affairs
- 12:30 – 2:00 p.m.
Land Use & Natural
Resources
- 2:00 – 3:30 p.m.
Health & Human Services

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Election Legislation – The Time Is Now

Two months after the decertification of a majority of Colorado's election equipment, the path to a successful 2008 election remains murky at best. While numerous alternatives have been offered by the Governor, the Secretary of State, the General Assembly, and the Clerks' Association, county commissioners remain concerned about how Colorado can avoid becoming the next national example of how not to conduct an election.

Earlier this week, there was some movement on the election front. Specifically, the Governor signed HB08-1155 and Secretary of State Mike Coffman announced his equipment recertification timeline. These efforts are detailed below.

HB08-1155 (Balmer/Marshall, Gordon/Johnson) Voting Systems Certification For 2008

HB 1155 allows the Secretary of State to begin a recertification process for voting equipment that was decertified in December 2007. Many of the machines, both DRE (direct recording electronic) voting machines and optical scanners, were decertified because of problems that can be addressed by upgrading software or hardware components. Current law prevents the Secretary of State from considering these adjustments without going through the lengthy process typically required in certifying equipment initially. So, as stated by Rep. Balmer in Governor Ritter's press release, "This bill will give Secretary Coffman the ability to take certain decertified machines back through the process as quickly as possible without reducing the stringent requirements we have in Colorado."

Recertification Timeline

Following Governor Ritter's HB 1155 press release, Secretary Coffman announced that re-examination of the decertified election equipment had occurred and that the state's testing board would post its testing reports on the Secretary of State's website by Friday, February 15th. Those reports have since been posted.

The reports outline the major deficiencies and reasons why equipment by Sequoia, Hart InterCivic, and ES&S were decertified. For example, the report explains that one of the main reasons Sequoia's DREs were decertified was because of the machines inability to ensure a Voter Verifiable Paper Audit Trail (V-VPAT). The report explains that during an election, election judges and/or county elections department staff may be required to change a roll of V-VPAT paper when the original roll expires. However, due to the complicated process of "threading" the V-VPAT paper correctly, and the fact that only one side of the paper is printable, V-VPAT paper may be incorrectly installed and not detected until after one or more voters have voted. The solution to this error is to simply conduct a print test before voters continue to vote. However, as of December 17th, Sequoia had not demonstrated or provided documentation that a print test could be conducted for the V-VPAT to mitigate this issue. Since December 17th, Sequoia has been able to demonstrate the system's ability to conduct a print test on V-VPAT paper thus ensuring a verifiable paper trail.

Deficiencies like this, and their associated "conditions for use," are noted for each equipment type. Secretary Coffman will hold a public hearing on the state testing board's findings on Thursday, February 21st from 1:00 – 5:00 p.m. Then, on Monday, February 25th at 5:00 p.m., Secretary Coffman will issue his final decision on whether or not to amend his December 17th decisions.

What's Next?

CCI is anticipating the introduction of an election bill by Sen. Gordon in the next several days. A draft of the bill reviewed by CCI states that, for the 2008 primary and general elections, paper ballots will be the primary election method available to voters. Additionally, the bill echoes a HAVA requirement to have at least one DRE voting machine per polling place to accommodate those with disabilities and those who specifically request to vote on a DRE. The draft of Sen. Gordon's bill would implement Governor Ritter's January announcement pertaining to the upcoming 2008 elections.

CCI's position is that every county should be able to run the 2008 election in a way that is efficient and effective using a range of choices (paper ballots, mail ballots, voting equipment, etc.) to suits each county's needs and capabilities. A recent CCI survey reinforces this position but indicates less support for paper ballots than for recertified voting equipment or mail ballot elections. Results, to date, are noted below.

<u>Question</u>	<u>Yes</u>	<u>No</u>	<u>Total Respondents</u>
Do you favor recertification of existing machines for use in either precincts or vote centers?	32 (97%)	1 (3%)	33
Do you favor the use of paper ballots that may require scanners to complete the process?	20 (61%)	13 (39%)	33
Do you favor mail ballots on a one-time only basis?	27 (77%)	8 (23%)	35

Counties uniformly believe that the time window for action is quickly running out. The state is overdue for an implemented election plan that has broad support and provides a path of certainty for the upcoming election. Without such a plan, factors ranging from diminished voter confidence to the roll-out of SCORE II voter registration system are bound to make the conduct of the 2008 election a bumpy ride at best.

Agriculture, Wildlife, & Rural Affairs (AWRA)

HB08-1325, Seasonal Agricultural Worker Program (Looper, Tapia)

CCI Position: Monitor

This bill would establish an agricultural seasonal worker program in the Department of Labor and Employment. The program would recruit seasonal workers and help process the H-2A visa applications. Requirements for workers would include fingerprinting, a background check, and a requirement to return to the home country of origin after employment.

Employers participating in this program would provide fair wages, transportation, housing, workers' compensation insurance and meals for the first two weeks before the first payday. An employer would also withhold 20% of the employee wages to be returned to the department. This money would be returned to workers when they return to their country of origin. If they do not return, the money is transferred to the local law enforcement agency.

Questions or Comments? Contact Andy Karsian at 303.883.9381 or akarsian@ccionline.org.

General Government (GG)

SB08-134, Minimum Bail for Drug Distribution (Kopp, McNulty)

CCI Position: Monitor

This bill seeks to establish minimum bail amounts for methamphetamine traffickers in Colorado. It also would take forfeited bond moneys to be distributed 50% to build more prisons and 50% to a county jail assistance fund. The bill was amended in committee to remove references to Immigration and Customs Enforcement after legislators heard testimony that the bill unfairly targeted the immigrant populations in Colorado.

Methamphetamine trafficking is a large problem in the counties, especially on the western slope. Jail overcrowding and insufficient resources for county jails are related problems. Although locking up drug traffickers is important, an increase of incarceration rates puts additional strains on county jails already facing maximum capacity.

HB08-1326, Verify Lawful Presence for Public Benefits (Lambert, Schultheis)

CCI Position: Oppose

Under this bill, counties would have to verify citizenship status of persons over 18 years old who apply for federal, state, or local public benefits, regardless of the source of funding for the benefits. The counties already require signed affidavits for applicants interested in receiving benefits, and this bill does not specify how counties would be required to verify citizenship status.

Additionally, as counties are responsible for providing a wide range of public benefits, not just those limited to health and human services, the funding streams for these services are extremely varied. The legality of this bill is debatable since it would limit such services as public health, weed removal, public safety, and a variety of other services.

Questions or Comments? Contact Andy Karsian at 303.883.9381 or akarsian@ccionline.org.

HB08-1254, Grandparent Custody Children Neglect (Rose, Tapia)

CCI Position: Oppose

HB 1254 is a mandate to the court to award custody of a child to the grandparent, when the child's custody is in question because of neglect, and the grandparent receiving custody is in the best interest of the child. If custody was granted to someone else, the grandparent is now permitted by this bill to petition for visitation rights and the bill outlines the reasonable criteria under which the grandparent can do so. The court decides on the visitation rights of the grandparent and is allowed to take into account the wishes of the child in the decision if the child is 12 years old or older. In such hearings, the court is required to provide the child a guardian ad litem (GAL) to represent the interest of the child. The bill is raising concerns among foster care professionals, given that the law was only recently changed from this grandparent preference. The ultimate issue is solely the best interest of the child, including keeping the child in as few placements as possible. With such a strong preference, there is the possibility that a child could be removed from a stable foster placement solely for the convenience of grandparents. CCI will continue to discuss this legislation with the various interests before arriving at a position.

HB08-1264, Electronic Read-Only Access to Court Records (Roberts)

CCI Position: Support

This is a CCI initiated bill. According to this bill, certain attorneys and agency representatives will be able to access the electronic read-only name index and register of actions in the Judicial Branch's data system. Such agencies include county social services and their attorneys, any state or local agency that acts in matters of anyone who is involved in a criminal activity, office of state public defenders, office of the child's representative and guardians ad litem (GAL), office of alternate defense counsel, and respondent parent counsel appointed by the court. The Colorado Supreme Court is given the authority to adopt rules in regards to the access. Users must be trained in terms of confidentiality and other usage matters.

For many years, counties and their attorneys, regardless of employment status, have had access to these files. When the Judicial Branch changed their data service provider over the past two years, counties' attorneys, the GALs, Alternative Defense Counsel, and others were simply omitted from this important access. In 2007 legislation, the county departments of social services were re-instated to access, but the other parties remain outside and unable to meet their obligations to serve the best interests of the child. This is necessary and important legislation and a priority for CCI. CCI urges the re-instatement of all the key legal parties involved in child welfare and protection.

SB08-099, Extend Medicaid Foster Care (Sandoval, Stafford)

CCI Position: Support

This bill allows young adults (under the age of 21) who were recently emancipated from foster care to be eligible for Medicaid benefits. As the law stands today, these young adults are essentially turned out of placement, often with few resources. The law has changed to provide for certain segments of this population, but the majority of these kids still have no coverage once they have reached 18. There are costs involved in this change, and CCI will continue to discuss the implications of the legislation until a position is taken.

Questions or Comments? Contact Pat Ratliff at 303.668.0264 or plr45@aol.com.

Land Use & Natural Resources (LUNR)

HB08-1259, Special Districts (M. Carroll)

CCI Position: Oppose

This bill provides that a special district is only allowed to provide services within its own boundaries. For those that already serve outside of their own area, a petition is to be filed to change the service area to comply with this requirement. Every special district is required to submit a report to each city and county in the district, the division of local government, and the state auditor. It contains requirements for regular special district elections to be held on the date of a general or coordinated election and other specifications on such elections.

HB 1259 could result in the formation of many new Title 32 districts in those areas where services are provided by agreement outside a district's boundaries. Intergovernmental services and agreements represent good governance, and this legislation raises some concerns about additional and potentially burdensome oversight, where sufficient oversight already exists.

SB08-117, Limit Local Building Permit Fee for Solar Panels (S. Mitchell)

CCI Position: Oppose Unless Amended

This bill prohibits local governments from charging more than \$150 for building permit fees in the installation of solar panels. During the Senate Agriculture committee hearing, the bill was amended to provide for a cap of \$300 for a permit for solar devices on a residential facility, and \$1000 for the permit for a commercial facility.

CCI has always urged local control over these kinds of activities, as a cap or mandatory fee rarely reflects the costs from jurisdiction to jurisdiction. While the desire to support these alternative energy resources is valued by counties, it is problematic for counties to subsidize such activities. Counties have the authority to charge for actual costs in our permitting and application review activities, so there is no profit margin from which to provide the subsidy. Given the revenue and spending restrictions, this legislation may prove to be a hardship on certain counties. CCI urges language that permits recovery of actual costs, instead of an arbitrary cap.

HB08-1141, Require Sufficient Water Supply (Curry, Bacon)

CCI Position: Support as Amended

During the most recent Land Use Steering Committee meeting, a "strike below" amendment was adopted on HB 1141 by the House Local Government Committee on Friday, February 15th. The amendment substitutes "sufficient" water supply references with "adequate" water supply, requiring local governments to determine whether a proposed development can demonstrate an adequate water supply. It grants local governments discretion in making this determination and clearly states local governments will not be liable for their decisions. Language of the amendment can be found on the front page of CCI's website.

Questions or Comments? Contact Pat Ratliff at 303.668.0264 or plr45@aol.com.

Public Lands (PL)

HB08-1318, Mitigate Pine Beetle Infestation (Lundberg, Taylor)

CCI Position: Oppose

This bill tries to assist with mitigation of the pine beetle infested trees on state-owned land. A fund for the State Forest Service would be created and funded through voluntary donations from sportsmen when buying hunting and fishing licenses. Furthermore, the bill would create a new sales and use tax exemption. Under the agriculture and livestock statute, the tax exemption would be for the purchase of beetle kill trees or tangible personal property manufactured from at least 75% beetle kill wood. The sales and use tax exemption would also apply to the storage, use, or consumption of such property.

Questions or Comments? Contact Andy Karsian at 303.883.9381 or akarsian@ccionline.org

Taxation & Finance (TF)

HB08-1125, Audit Special District's Unissued Debt (Marshall, Isgar)

CCI Position: Monitor

This bill is the result of the Legislative Audit Committee's work, after finding that not all local governments are consistently requiring annual reports from special districts, as allowed by current law. The local government under which the special district is created can request an annual report for the first five years of the special district's creation and a five-year report after that. Audits are required annually and this bill would require that information on adherence to service plans, as well as, debt issuance and authorization be included in these audit reports. Costs are expected in employing auditors for carrying out these new requirements, but they will decrease after the initial audit.

HB08-1173, Prudent Management of Institutional Funds (McGihon, Shaffer)

CCI Position: Monitor

This bill repeals and reenacts the Uniform Prudent Management of Institutional Funds Act. It establishes new standards for trusts, nonprofit corporations, foundations, and other institutions to follow in managing and investing funds. It outlines duties for organizations that invest and manage charitable funds and establishes restrictions on the spending of endowment funds.

Questions or Comments? Contact Bill Clayton at 303.884.7618 or claytonwjc@aol.com.

Transportation & Telecommunications (TT)

HB08-1133, Diesel Emissions Inspection Program Area (Lundberg, Schultheis)

CCI Position: Monitor

This bill takes El Paso, Larimer, and Weld counties out of the diesel inspection programs as new plans are being developed by the Regional Air Quality Council and the Department of Public Health and Environment to reduce ozone levels. The ozone fine revenues will decrease for these counties as a result.

HB08-1139, Toll Highway Evaluation by Colorado Tolling Enterprise (M. May)
CCI Position: Monitor

HB 1139 expands the responsibilities of the Colorado Tolling Enterprise board to include evaluating state decisions to take interest in non-state owned toll highways and operating concessions; and submitting such evaluations in its annual report to the Senate Transportation Committee and the House Transportation and Energy Committee.

Update for the Week:

HB 1012, Rep. Vaad's bill to give back roads to municipalities and counties, and HB 1092, Rep. Vaad's bill to allow petitions for RTA's were both killed in the transportation committee on 2-14-08. Rep. Green's HB 1118, a bill requiring Context Sensitive Solutions (CSS) standards for transportation projects was also killed in the transportation committee. Rep. Levy is doing a total rewrite of her transportation planning bill, HB 1312. More to follow as the new bill is developed and CCI reviews it.

Questions or Comments? Contact Tony Lombard at 303.884.9113 or tony@lombardclayton.com.