

CCI LEGISLATIVE REPORT

COLORADO COUNTIES, INC.
FEBRUARY 4, 2008

CCI Meeting Reminder

All Steering Committee meetings are held at CCI.

Friday, February 8

- 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, February 15

- 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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CCI Task Force Focuses on Severance Tax/Federal Mineral Lease Issues

Severance tax and federal mineral lease (FML) revenue projections for the 2008-09 state fiscal year are \$213.9 million and \$156.9 million respectively; and revenues may be even higher in subsequent years. So it should be no surprise that there is no lack of interest or ideas on how to spend the expected new revenue.

In an effort to provide an opportunity for various commissioners to have focused conversations on the proposals, the CCI board of directors created a Federal Mineral Lease/Severance Tax Task Force, co-chaired by Routt County Commissioner Doug Monger and Garfield County Commissioner Trésie Houpt. CCI's task force is comprised of commissioners representing the sixteen largest FML and severance tax producing counties. The task force met for the first time on Friday, January 25th to provide feedback on introduced legislation and FML formula proposals. It will meet again on February 8, prior to CCI's Taxation and Finance Steering Committee taking final positions on legislation later that day.

At its January 25th meeting, the task force discussed HB 1083 (Curry, Penry), *Mineral Revenue Local Government Distribution*, and HB 1084 (Buescher, Penry), *Impact Assistance Prepayment Option*, both of which are results of the Severance Tax and Federal Mineral Lease Revenue Allocation Interim Committee that met last summer and fall.

HB 1083 (Curry, Penry) Mineral Revenue Local Government Distribution

While HB 1083 includes a handful of changes, like adjustments to the membership of the Energy Impact Advisory Committee and changes to the definition of "employee" for reporting purposes, the most significant changes are with the direct distribution allocation formulas. HB 1083 tackles the direct distribution formula for both severance tax and federal mineral lease

revenues at two levels: the county-wide level and the sub-county/intra-county level. For the county-wide distributions, HB 1083 adds Employee Resident Reports, a county's proportion of mine and well permits, and a county's proportion of overall mineral production. HB 1083 allows the Department of Local Affairs (DoLA) to determine the weight of each of these three factors as long as no factor is weighted less than 25%. For the sub-county/intra-county distributions, HB 1083, as amended, requires consideration of employees, population, and road miles. It also allows DoLA to establish the weights of each factor as appropriate for a given area. Local governments in a given county could cooperatively agree on an alternative distribution methodology and the bill directs DoLA to give such an agreement effect.

Members of CCI's task force were concerned about relying solely on population figures for the sub-county/intra-county distributions. Many commissioners spoke in favor of using Employee Resident Reports and HUTF lane mile data when distributing funding at the sub-county/intra-county level. Others argued that each county, in collaboration with its municipalities, should be responsible in determining how the sub-county/intra-county distribution occurs. In its amended form, HB 1083 addresses these concerns.

HB 1084 (Buescher, Penry) Impact Assistance Prepayment Option

HB 1084 allows producers to make contributions of up to \$1 million to a state or local government entity for tax years 2009 through 2013. Assuming the contribution is approved by DoLA, the contribution amount would offset the taxpayer's severance tax liability. HB 1084 caps the annual aggregate sum of approved contributions at \$5 million/year. Contributions can be made to local governments or to the state.

At the task force meeting, commissioners noted that a severance tax prepayment, or credit, program already exists in statute. In fact, the program has been used in 41 projects over the years. The last time the credit was used was 19 years ago. Commissioners, in general, agreed that the existing program is sufficient. They also agreed that, if HB 1084 moves forward, the prepayment caps should be changed so that they do not quickly become outdated and state entities should be removed as eligible beneficiaries of the prepayment program.

HB 1084 was debated in the House Finance Committee on Wednesday, January 30th and referred to Appropriations with several amendments. These included removal of the \$1 million cap, allowing multi-year agreements that do not extend beyond 2013, allowing consideration of interest on prepayments in calculating the severance tax credit, and requiring a report to the legislature on the prepayment program.

The CCI task force also had discussions about the proposals for allocating new federal mineral lease revenue, none of which has been introduced as of this printing. However, it appears that a bill will be introduced very shortly and we expect to be able to provide an update on it in the next edition of the *Legislative Report*.

Agriculture, Wildlife, & Rural Affairs (AWRA)

HB08-1137, Wildlife Commission Acquisition of Property (Sonnenberg, Brophy)

CCI Position: Oppose

The Wildlife Commission, as part of the Division of Wildlife, is currently able to acquire land to protect habitat and wildlife. It also provides conservation easements for hunters and sportsmen. The first priority for land acquisition is the use of conservation easements, but private landowners do occasionally offer to sell land to the commission. This bill would require the commission to sell any land or water interests equal to any new land or water interests the commission buys in the future. This idea could harm Colorado since lands currently held by the commission could be bought and developed in contravention of the original intent. Water rights and wildlife habitat could be lost if the commission bought any new lands and had to sell existing holdings.

Additionally, this bill requires the commission to annually pay counties payments in lieu of taxes (PILT) on land it owns. The commission already does this. Counties apply for PILT using a simple form and receive the monies from the commission. Finally, the commission would have to submit any new acquisitions to the entire General Assembly, instead of just to the Capitol Development Committee.

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

General Government (GG)

HB08-1065, County Ordinance Enforcement (May M., Tochtrop)

CCI Position: Support

This is a CCI legislative priority. Currently, counties are unable to provide a sliding scale for the enforcement of specific violations. Counties must enforce an ordinance the same countywide, whether it makes sense to do so or not. This bill would allow counties to adopt a graduated fine schedule and designate areas in the county within which an ordinance applies. This bill also allows counties to bring a civil action against habitual noise ordinance offenders.

HB08-1206, Indian Child Welfare Act Notification (Gagliardi, Tochtrop)

CCI Position: Support

If a child in the county social services system states that they are, or could be, from Indian heritage, counties must send out notifications to the Indian tribes and federal agencies. This bill would allow the counties to send notifications via certified mail, as well as the currently mandated registered mail.

Certified and registered mail both meet the notification requirements under the Indian Child Welfare Act. Both have receipts showing notification occurred. California passed a law allowing notification via certified mail that has been upheld by the California courts thus far. This change would represent a significant cost savings to counties that send notifications.

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

Health & Human Services (HHS)

HB08-1108, Increase Funds for Older Coloradans Cash Fund (Riesberg, Morse)

CCI Position: Support

This bill increases the funds for the Older Coloradans Cash Fund from \$5 million to \$8 million. The funds come from receipts collected from state sales and use tax. The funds are administered by local area agencies on aging. The services that are affected by the increase in funding will be personal care, assisted transportation, congregate meals, home-delivered meals, homemaker services, adult day care, transportation, and legal assistance. In discussions with county commissioners and human services directors, CCI believes that this program is in need of the additional funds that would be generated by the increases proposed in HB 1108. The increasing costs for transportation and home care services continue to grow, driving the need for increased funding.

HB08-1157, Youth Advisory Council (Roberts, Windels)

CCI Position: Support

HB 1157 creates a youth advisory council for the purpose of exploring issues concerning youth in the state of Colorado, with the end goal of making recommendations to the elected officials. These issues range from education to employment, the environment to health, as well as youth participation in state and local governments. Membership will include legislators and other representatives with an emphasis in diversity of members, especially those representing rural areas.

CCI sees great value in bringing diverse youths together to express their concerns and unique perspectives. This is a proposal with great merit, and commissioners urge the maximum participation. Commissioners hope that over time greater numbers of children and youth can become involved in this experience. We also see great benefit as the youth advisory council educates policy and law makers on the state of Colorado's children and youth.

SB08-057, Insurance Coverage for Hearing Aids for Minors (Kester, Marshall)

CCI Position: Support

This bill requires insurance coverage that covers basic health needs of children to also cover hearing aids. Providing hearing aids to children who have been diagnosed with hearing loss in the early stages improves their chances of language development skills. By doing so, this bill will save the state money in the future of these children's lives in terms of special education, alternative treatments, and other costs.

CCI has taken a strong position in support of this important bill. Medicaid eligible children in Colorado can receive hearing aids, but many children whose families have managed to pay for health insurance are still without these critical technological aids. It makes very little sense to delay the benefits of early education and socialization that these children could realize with the proper hearing aids at a young age. This bill can create equity across the system of care for the very youngest Coloradans who have hearing loss.

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

Land Use & Natural Resources (LUNR)

HB08-1161, Strengthen Mining Reclamation Standards, Ensuring the Protection of Groundwater and Public Health (Kefalas & Fischer, Johnson)

CCI Position: Support

The bill expands the powers of the Mined Land Reclamation Board to regulate mining activities. It clarifies authority in uranium in situ leach mining, outlines further reasons for permit denials, mandates groundwater restoration to original condition, mandates landowner notification of in situ leach mining, and mandates notification of adverse impacts to groundwater.

The proponents of leach mining of uranium in northern Colorado have described this process as one in which the water used in the leaching process is never suitable for drinking, and the aquifer itself can end up sequestered permanently. CCI is very concerned about the impacts on the state's aquifers, sequestered or not. The aquifer system is very complicated and poorly understood in terms of how pollutants can move in plumes through this system. This legislation proposes greater vigilance of the entire process and CCI strongly urges the passage of this bill.

HB08-1165, Strengthen Mining Reclamation Standards (Fischer & Kefalas, Shaffer)

CCI Position: Support

This bill is similar to HB 1161, and sets guidelines for the Mined Land Reclamation Board to better regulate mining activities. It aims to give the board more authority to take into account public health, environmental impacts, and wildlife resources in their decision-making. It does increase the number of board members to nine, with one member representing local governments.

Again, CCI strongly supports this legislation, in recognition of the great risks to Colorado's valuable natural resources from poorly regulated mining or milling activities. It is appropriate to recognize that mistakes in the past have left scars and indelible marks on the state, and the highest possible vigilance is appropriate to secure a protected environment in the future.

SB08-084, Requirements in the Development of Lowry Bombing Range (Hagedorn, M. Carroll)

CCI Position: Oppose

This bill prohibits any development of areas in Arapahoe County that were once the Lowry bombing and gunnery range until all environmental remedial decisions are settled. It also requires that the seller of property disclose clearly in the contract the fact that the property used to be a defense site, possibly containing unexploded ordnances and potable water of unreliable quality.

CCI opposes this overly prescriptive approach to strictly local land use matters. This legislation reflects many concerns for future development in this area. Since we are aware that Arapahoe County and the various parties involved in this discussion have agreed on many of these elements, the legislation is both unnecessary and intrusive on a strictly local matter.

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

Public Lands (PL)

HB08-1110, Income Tax Deduction for Wildfire Mitigation (Witwer, Kopp)

CCI Position: Support

CCI has worked with a variety of collaborators seeking to find solutions for the issue of forest health in Colorado. One of the areas these groups had been unable to address was what to do about hazardous fuel loads on private lands. This bill would provide an incentive for landowners, living in community wildfire protection plan areas, to claim a deduction for creating fire breaks, defensible space, and other mitigation measures on their land.

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

Taxation & Finance (TF)

HB08-1081, Property Tax Credits To Support Education (Lundberg)

CCI Position: Monitor

HB 1081 creates three property tax credits to families whose children attend private schools or are home schooled. The counties would be reimbursed for the revenue lost because of the credits and are then responsible for distributing reimbursements for the other local governments, which does drive some administrative costs for the counties. Private School Education Tax Credit Cash Fund and School Tuition Organization Tax Credit Cash Fund have been created for this purpose.

SB08-013, Severance Tax Trust Fund Operational Account Appropriations (Schwartz, Fischer)

CCI Position: Referred to Federal Mineral Lease and Severance Tax Task Force

This is a bill from the Interim Committee to Study the Allocation of Severance Tax and Federal Mineral Lease Revenues. It changes the way money is appropriated from the Operational Account of the Severance Tax Trust Fund to the Department of Natural Resources and its various programs.

Money that goes to Oil and Gas Conservation Commission decreases from 45% to 40%. Division of Reclamation, Mining and Safety money decreases from 30% to 25%. The Division of Wildlife gets up to 5% of the account for purposes of mitigating impacts from mineral exploration. The Division of Parks and Outdoor Recreation gets another 5% for the maintenance of state parks. It also exempts the appropriations made to the Division of Wildlife from the two year reserve requirement as set forth in HB02-1041.

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

Transportation & Telecommunications (TT)

HB08-1118, Context Sensitive Solutions for Transportation Projects (Green)

CCI Position: Oppose

HB 1118 requires that every transportation project that starts on or after July 1, 2008 be completed with Context Sensitive Solutions (CSS). The purpose of CSS is to engage stakeholders such as local governments and community organizations in the discussions. It is also meant to take into account safety, mobility, and values of the affected community in the decision-making process of a transportation project.

While CCI recognizes the importance of collaboration in commencing a transportation project, the requirement of meeting the needs “as agreed to by a full range of stakeholders” is a high threshold to meet. The Transportation Steering Committee voted to oppose this bill because of the fact that it requires agreement from all stakeholders before a project can move forward. At this time, there are numerous business groups opposing the bill. Many of these groups are from the North West quadrant of the metro area, and are opposing the bill for economic reasons and its possible effects on the Northwest Parkway development area.

HB08-1092, An Alternative Means to Initiating the Formation of a Regional Transportation Authority (Vaad, Johnson)

CCI Position: Oppose unless amended

With this bill, anyone could initiate a regional transportation authority (RTA) by filing a petition with the county clerk and recorder of every county that is included in the proposed authority. Currently, a RTA is formed by contract, and the municipality or county has to hold a public hearing and get voter approval. Tax and debt questions would still require voter approval as it currently does, according to this bill. Election costs will increase for a county if a petition is used to initiate the RTA.

This bill is a result of two failed RTA attempts in the Larimer/Weld counties area. The bill was heard on January 29 and taken off the table for amendments. If the bill passes, it will require two elections and would force local governments to form RTA's even though there is no transportation plan required for the first election by petitioners. The bill's proponents feel that the bill will compel local governments to form RTA's in spite of their differences. There are no sanctions in the bill; so, at best, the bill would merely encourage local governments to develop a RTA.

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