



Colorado Counties, Inc.

March 24, 2008

# Legislative Report

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## CCI Meeting Reminder

All Steering Committee meetings are held at CCI.

### **Friday, April 4**

- 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, April 11**

- 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 STATUS QUO**

Last Thursday morning, SB 189, which would have required a paper ballot election for 2008, came to a halt in the Senate Appropriations Committee. This bill's genesis occurred months earlier with the decertification of voting machines in Colorado, which led to the question of how to run elections in 2008. Conversations started among Sen. Gordon, Governor Ritter's staff, county clerks, voting advocates, and the counties to determine what to do. A decision in January to pursue a uniform voting process throughout the state led to a press announcement declaring paper ballots as the road forward.

However, the announcement was not followed by a bill. Another bill, HB 1155, passed both houses quickly. When the Governor signed it, the Secretary of State was allowed to retest the voting machines using new procedures allowing for more flexibility and county clerk input. The machines still had to meet the existing standards under Colorado law. While the Secretary of State recertified the voting machines, a bill to implement the announced plan remained unseen.

Finally, at the end of February, leadership introduced SB 189 and the bill immediately created controversy. The bill included more provisions than what clerks had understood would be proposed and the amount of money allocated was insufficient for the counties to cover the fiscal impacts of the bill. Negotiations continued and the timeframe for planning an election became tighter as SB 189 sat in Appropriations. When it was evident Colorado could not afford to cover the price of implementing a new paper ballot election process, the bill was postponed indefinitely.

Counties are now able to run elections as they have for past years within their existing budgets. There will be far fewer problems throughout the state on Election Day, such as long lines or confusion about which paper ballot goes to which voter. The 2008 election will continue to be fair, transparent, and secure.

CCI would like to thank everyone involved in the negotiations - Governor Ritter, who showed his earnest intentions by trying to find money to cover the fiscal impacts of SB 189; Senator Gordon, who exhibited extraordinary patience in negotiating with all the parties for months; the county clerks, who spent countless hours accumulating data and helping educate others on running elections; and the county commissioners and councilmembers, who spoke to their legislators and supported their clerks throughout the process.

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### ***LEGISLATIVE REPORT CORRECTION***

Last week's edition mistakenly reported that HB 1306, Prompt Pay for Contracts (Riesberg), would reduce the amount of retainage counties could hold to 5%. The preamended version of the bill allows counties to retain the traditional 10% retainage.

### **General Government (GG)**

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#### **HB08-1027, School College Construction Inspection (Mitchell V., Taylor)**

##### **CCI Position: Support**

This bill addresses concerns identified in a 2007 audit highlighting oversights in ensuring safe school buildings. HB 1027 allows local building departments to be pre-qualified by the state via a memorandum of understanding process. Once pre-qualified, the local building department can conduct the plan reviews, issue building permits, conduct inspections, and issue certificates of occupancy if requested by a school district. If a school district chooses not to use a pre-qualified local building department for its inspections, the school district can either choose a certified third-party inspector or the state to complete the necessary inspections. The Division of Oil and Public Safety continues to maintain the responsibility of ensuring that plan reviews and inspections are conducted.

HB08-1027 represents the hard-work of a stakeholder group, which met throughout the summer and fall, consisting of representatives from local building departments, fire chiefs, school districts, architects, the state, and others.

#### **HB08-1260, Manufactured Home Document Recording (Hodge, Penry)**

##### **CCI Position: Support**

This bill requires certain documents related to an application for a certificate of title for a manufactured home to be filed and recorded by a county clerk and recorder. It creates new certificates for permanent locations, removal, and destruction of manufactured homes in Colorado.

CCI supports this bill as a step toward clarifying the ambiguities around assessing the values for manufactured homes. Additional problems remain for some counties in Colorado where additional regulations and rules for manufactured homes would allow for increased inspection

and codification of construction standards ensuring the safety of workers living in these homes. Man camps on the Western Slope are examples of this.

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

## **Health & Human Services (HHS)**

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### **HB08-1362, Earned Income Tax Credit (Kefalas, Boyd)**

**CCI Position: Oppose**

The earned income tax credit (EITC) is aimed at easing the tax burden for low-income, working families and is 10% of the federal credit. The Colorado credit is only available in tax years when a “qualified surplus” is available for the state under the Taxpayer’s Bill of Rights (TABOR). Because of these limits, Colorado has not given EITC to those who are eligible for the federal credit since tax year 2002. This bill creates the earned income tax credit fund to provide this credit to the eligible families within the state. It fills the fund with the unemployment insurance surcharge tax for fiscal years 2008 and 2009. After that, the funds will be drawn from the temporary assistance for needy families (TANF) block grant moneys in the estimated amount that is anticipated to be claimed by taxpayers. As introduced, the bill diverts \$47 million from fiscal year 08-09, and another \$47 million in fiscal 09-10.

This bill is of concern to counties because county TANF reserves are directly impacted. With a third of the state’s annual TANF block grant moneys going directly into the EITC fund, counties will be required to rely on their TANF reserves to operate. The amounts in county reserves vary widely between counties, and these reserves will be insufficient for some counties to provide services to their residents. There is no statutory structure for aggregating the reserves, thus “re-allocating” reserves literally requires some county taxpayers to subsidize the TANF programs in other counties. There is no precedence for such a procedure, nor does the bill address these issues. According to financial analyses by counties and the state, there is a significant risk to the solvency of TANF funds within five to six years, if the funds are diverted to EITC and the reserves are used to backfill the diversion.

### **HB08-1366, Recodification of Early Intervention Services (Pommer, Keller)**

**CCI Position: Pending**

This is a legislative cleanup of early intervention services. It emphasizes the importance of recognizing and addressing developmentally disabled children’s needs within the first few years of life. The goal is to address these needs early to mitigate further difficulties and lessen the need for costly services later in life. The bill is largely concerned with funding for early intervention services in compliance with the federal “Individuals with Disabilities Education Act” or IDEA. Specifically, it sets provisions for the State Department of Human Services to ensure that families of developmentally disabled children do have comprehensive services available to them in the first critical years of the child’s life. Knowing that some of these children fall through the gaps of private healthcare, the state is carrying out the “Child Find” program component of the IDEA to “find, identify, locate, evaluate, and serve” these children in the first two years.

## **SB08-194, Public Health Reorganization (Hagedorn, McGihon)**

### **CCI Position: Monitor with Amendments**

This bill attempts to modernize statutes concerning county and district health departments and agencies. In addition to creating a public health fund, it requires the department of public health and environment to form a plan that is ultimately approved by the state board of health. It requires the county to either form a county public health agency or jointly form a district public health agency with another county. Each county or district must have a board of health and prepare a local public health plan. The health practitioners employed by these public health agencies are covered under governmental immunity because they are considered government employees.

The CCI Taxation and Finance Steering Committee discussed the bill and took a “monitor” position. The CCI Health and Human Services Steering Committee also discussed the possible impacts of the bill and took a “monitor with amendments” position. While it is of importance to provide adequate public health services, it is also imperative that counties have sufficient resources to carry out such services in an efficient manner. CCI is working with stakeholders to shape the bill to make it feasible for counties.

The bill was heard in Senate HHS on Thursday, March 20, 2008, and amendments addressing the Tax and Finance Steering committee’s concerns were added to the legislation. The bill was passed on a unanimous vote of the legislative committee, with two members excused. At this time, the proponents continue to work with CCI and individual county commissioners to ensure that any remaining concerns are resolved.

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

## **Land Use & Natural Resources (LUNR)**

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### **HB08-1280, Protect Leased Instream Flow Water Right (Fischer, Schwartz)**

#### **CCI Position: Monitor**

HB 1280 allows the water rights that have been leased to the Colorado Water Conservation Board (CWCB) for instream flow to be left out of the historic consumptive use analysis done by the water court. They are not to be considered abandoned water rights in these cases. It sets terms for the CWCB to act in these lease agreements such as recording usage and measuring water flow.

There have been a number of meetings and amendments developed, and the bill is now supported by the Colorado Water Congress. After a hearing in Senate Agriculture on Thursday, March 20, 2008, the bill was passed amended to the Senate for second reading.

### **HB08-1319, Factory Built Structure Requirements (Soper, Kester)**

#### **CCI Position: Support with Amendments**

As current law dictates, factory built structures, commercial structures, and manufactured homes have to be certified if they are manufactured, repaired, or sold in Colorado. HB 1319 attempts to ensure the safety of occupied structures that were built or repaired outside of Colorado. It requires the Division of Housing to make rules for the training, certification, and

testing of installers of manufactured units. Occupied units must have an approval insignia showing inspection passage.

Counties are interested in this legislation, in particular, because the bill recognizes the need to inspect residential and non-residential manufactured structures that are brought into the state without the in-factory reviews normally applied by the state. This will ease many local concerns regarding safety and structural soundness of these buildings that tend to become prevalent in high-labor areas, such as the oil and gas exploration sites throughout the state.

The bill was amended in Senate Business Affairs and Labor to increase the number of hours of training required by installers, and to tighten the overall standards for installation and inspection. The bill was passed to the Senate Committee on Appropriations.

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

### **Public Lands (PL)**

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#### **HB08-1069, Prohibiting OHVs on Public Land Not Designated By Controlling Land Agencies (Curry, Tochtrop)**

**CCI Position: Support**

Throughout last summer and right up to the beginning of the legislative session, a diverse group of organizations worked together to address the problem of off highway vehicles (OHV) on closed public lands. The coalition also addressed how to prevent a minority of hunters and sportsmen from using OHVs while involved in hunting or fishing.

This bill allows local law enforcement officials to ticket individuals who are found on closed trails in public lands. Previously, the Forest Service or Bureau of Land Management officers were the only ones able to ticket these users. A lack of resources and a small number of officers limited the ability of the land use agencies to enforce the rules. Furthermore, the bill allows hunters to be assessed points against their hunting license if they are using their OHVs in closed areas while engaging in hunting or fishing.

Last Thursday, Governor Ritter formally thanked the groups involved with this bill and signed HB 1069. CCI would like to thank all the members of the coalition who worked to pass this bill and to thank Representative Curry and Senator Tochtrop for their patience and determination in getting this bill to the Governor's desk.

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

### **Taxation & Finance (TF)**

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#### **HB08-1083, Mineral Revenue Local Government Distribution (Curry, Penry)**

**CCI Position: Support**

As recommended by the Interim Committee to Study the Allocation of Severance Tax and Federal Mineral Lease Revenues, this bill changes the direct distribution formula of revenues to local governments. The proposed formula takes into account oil and gas employees' residence, well permits, and overall mineral production in a county in proportion to statewide numbers. The weight of each factor in the overall formula is still to be determined by the Department of

Local Affairs (DOLA). The bill sets administrative guidelines for DOLA in implementing the new formula such as employee residence reporting procedures. CCI Federal Mineral Lease/Severance Tax Task Force had several discussions on this bill and was able to offer input in its creation.

**HB08-1084, Impact Assistance Prepayment Option (Buescher, Penry)**

**CCI Position: Oppose**

This is another bill recommended by the Interim Committee to Study the Allocation of Severance Tax and Federal Mineral Lease Revenues. It allows a taxpayer to make a contribution to a state or local government entity that is impacted by industry. Upon the approval of Department of Local Affairs, the contribution amount times a specified interest rate can be used toward offsetting the severance tax liability. The bill states rules for approval and the annual limit for such contributions of \$5 million. The taxpayer cannot contribute more than the tax liability in that tax year and cannot simultaneously claim a tax credit under the Impact Assistance Credit Program. The CCI Federal Mineral Lease/Severance Tax Task Force felt that this bill was unnecessary and the current system is satisfactory.

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

**Transportation & Telecommunications (TT)**

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**SB08-014, Toll Enforcement Process (Williams, Marostica)**

**CCI Position: Monitor**

This bill resulted from recommendations of the Transportation Legislation Review Committee. It allows the Colorado Tolling Enterprise to adopt an administrative process modeled after that of the public highway authorities to adjudicate toll evasion cases. County and municipal courts will no longer have jurisdiction over these cases. This bill has passed both houses and has been sent to the Governor for his signature.

**SB08-155, Centralize IT Management in OIT (Cadman, A. Kerr)**

**CCI Position: Monitor**

The governor's Office of Information Technology was created to consolidate information technology resources in the state executive branch. This bill makes statutory changes that are in line with Executive Order D 016 07, which began the consolidating process. There are substantial administrative and personnel changes within the bill. It creates the Information Technology Revolving Fund for IT needs. This is an important bill for the state. It will consolidate all of the state IT services in one office, the state CIO, who will monitor and administer state computer programs. This will take a bit of time to implement, but once operational, it is expected to make state computer systems and programs more efficient.

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