



Colorado Counties, Inc.

April 21, 2008

Legislative Report

CCI Meeting Reminder

All steering committee meetings are held at CCI.

CCI 2008 Summer Conference

June 9-11, 2008
Vail Cascade
Eagle County

Friday, July 25

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, August 1

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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800 Grant St., Suite 500
Denver, CO 80203
Ph) 303.861.4076
Fax) 303.861.2818
www.ccionline.org

Severance Tax and Federal Mineral Lease Bills Rolling Along

Both HB 1083, which applies to severance tax, and SB 218, the FML allocations bill, are continuing to make their way through the legislative process. HB 1083, which is much further along, has passed both houses and a conference committee is scheduled to meet this Wednesday, April 23, at 8:15 a.m. to consider compromises. The primary issue remaining is the “soft landing” that was added, then removed by the Senate. At least one compromise being drafted eliminates the delay in the soft landing, makes it a two-step phase-in (rather than three steps as originally proposed), and provides that no metric (employees, production, and permits) can be weighted by DOLA less than 30%. This is very close to what the Taxation & Finance Steering Committee endorsed and CCI will communicate to conference committee members.

SB 218 has now been heard by two Senate committees – Education and Finance. The Senate Education Committee reviewed the bill on April 10 and adopted an amendment that conforms the allocations in the bill to the compromise percentages. This amendment was reviewed and discussed by CCI’s Severance Tax/FML Task Force the following day. SB 218 was also referred to the Finance Committee, which considered the bill on April 17 and adopted three amendments. One concerned the use of higher education funding for controlled maintenance, which does not impact counties. There was also an amendment to increase the starting level for allocations to the Colorado Water Conservation Board from \$13 million to \$14 million, which does not affect the local allocations.

The more significant amendment for counties changed the three metrics to be used by DOLA to make allocations throughout the state to a single metric that makes allocations to the “respective counties of the state from which the moneys are derived in proportion to the amount of the moneys derived from each of the respective counties.” This is effectively a county of origin distribution. DOLA indicated that some change to this portion of the bill was necessary because the federal government does not keep track of permits and production volume below the state level and DOLA would have no way of obtaining county-by-county information on these metrics. However, the amendment eliminated the consideration of employee residence reports, which do include information on whether employees are working on federal lease lands. CCI is attempting to secure a local level analysis of the impacts of this change from DOLA, but this information is unavailable as of this writing. The metrics (employees, population, and road miles) for allocations within each county remain unchanged.

There are a few issues still outstanding relative to SB 218. One issue concerns the treatment of the local government permanent fund. Notwithstanding earlier indications from the legislature that this could be structured as counties and cities desired, there is currently a dearth of support in the General Assembly for the proposal to create local reserve funds. Instead, there seems to be strong interest in making the local government permanent fund the state’s rainy day fund. Other options that counties are exploring include the creation of an independent authority to hold and disburse funds under appropriate circumstances, caps on the amount of reserve/permanent funds held by the state using FML revenues, and more stringent conditions on the use of reserve funds by local governments. A second issue concerns direct allocations to K-12 schools. Under the old cascade formula, schools directly received a share of FML payments that totaled about \$3.8 million statewide in 2006. This was eliminated by the new SB 218 formula and there is now a move to restore those payments. Because they were part of the local allocations under the old cascade, it appears that the cost of restoring them will also be borne by the local side of the FML allocations. Finally, there is a somewhat undefined issue related to PILT payments and whether all or any portion of FML allocations have to be used as offsets for PILT purposes. CCI and others are trying to get a definitive answer to this question in order to assess the need for further amendments.

At this point in the session, action can happen at almost any time. If you have thoughts or comments about either of these bills, we would like to hear them. More importantly, communicate them to your senator and representative – they will likely see the HB 1083 conference committee report and SB 218 within the next week. We will continue to provide you updated information as it becomes available.

General Government (GG)

HB08-1329, Procedures for Updating Voter Registration Lists (Marshall, Gordon) **CCI Position: Monitor**

This bill requires county clerks to update their voter rolls in advance of the upcoming 2008 general election. Clerks would send out voter confirmation cards to individuals placed on the inactive list. Those who did not vote in the 2007 election were deemed inactive. If an inactive voter returns their card, their status will be changed to active.

HB 1329 carries a fiscal impact for local governments, even though the bill's fiscal note does not reflect this. Amendments were suggested by county clerks and accepted by the sponsor. These include removing the requirement of two consecutively missed general elections before categorizing a voter as inactive, and sunseting the mailing of ballots to inactive voters after the 2009 November election.

SB08-006, Suspending Medicaid for Confined Persons (Boyd, Solano) **CCI Position: Support**

In the seven-county Denver metro area, mentally ill county jail inmates have an average jail stay of 114 days while other inmates have an average of about 20 days. This is about five and a half times longer. Severely mentally ill inmates comprise 24% of metro counties' jail inmates. Mental illness is a significant factor in recidivism. SB 006 helps address these issues by helping mentally ill inmates leaving prison to continue receiving their Medicaid benefits after release from the county jails. Currently, benefits are terminated upon incarceration and it takes three to six months to reapply. During this time, the mentally ill person who is not receiving medication is more likely to recidivate.

Colorado spends only \$37.5 million in general funds on community mental health services for medically indigent people, yet spends more than \$600 million for the department of corrections. Treating mentally ill individuals in the community costs about \$6,000 - \$8,000 per year, while incarcerating them costs up to \$60,000 per year and offers minimal, if any, remedial benefit. This bill will reduce recidivism and decrease costs associated with jailing mentally ill individuals in the counties.

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

Health & Human Services (HHS)

SB08-214, Local Government Medicaid Provider Fees (Shaffer, Frangas) **CCI Position: Support**

In 2006, the General Assembly passed SB 145 to allow local governments to collect fees from non-governmental hospitals and health care agencies in order to participate in the state's Medicaid program with federal dollars. Currently, there is only one local government who has imposed a provider fee and is awaiting federal approval for it. This bill makes clarifications and specifications to more fully meet the federal requirements. In addition to further defining qualified providers and clarifying the basis for the imposed fee, the bill establishes how the fee can be collected and distributed.

The state has been waiting for federal waivers and is, through this legislation, fine-tuning the issue in order to meet federal requirements. We look forward to seeing greater Medicaid funds flow to hospitals suffering from un-reimbursed costs of providing care to the low-income and uninsured. The bill has passed the Senate. It was introduced in the House on April 14 and assigned to the House Health and Human Service Committee.

SB08-216, County Match Residential Child Care (Morse, White)

CCI Position: Support

This bill deals with the county contributions to residential child health care programs. The General Assembly passed HB 1395 in 2006 to reduce the county share from 20% to the FY 2004-2005 actual contribution of \$5.4 million. This was done because new service delivery and billing models were implemented. The legislation sunsets this year and the Joint Budget Committee has recommended SB08-216 to respond to the temporary status of the provision. The committee recommended 10% for county shares of the contribution to all residential child health care programs, which includes non-Medicaid residential programs, the Therapeutic Residential Child Care Facility, and Psychiatric Residential Treatment Facilities. Without this piece of legislation, county contributions will increase by over \$8 million every fiscal year.

We appreciate the efforts of the Joint Budget Committee and Sen. Morse and Rep. White to ensure that counties continue to be held to a 10% matching responsibility rather than the 20% that would occur if the bill fails. We urge members to continue to support this critical legislation.

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

Land Use & Natural Resources (LUNR)

HB08-1369, Incentives for Donation of Water Rights (Pommer, Gibbs)

CCI Position: Monitor

This allows the Colorado Water Conservation Board to provide state income tax credits for the donation of water rights to instream flow. The credit can be up to \$250,000 and is half the amount of the appraised value of the donation. The total donation credits for any group of water rights owners is limited to \$2 million at any given time. The bill contains provisions addressing the transferability of credits to future tax years (a credit must be taken within a six year period), as well as compliance with the 6% limit on General Fund appropriations growth. Indirectly, this bill does have implications for the Highway Users Tax Fund (HUTF) and the Capital Construction Fund. More specifically, it reduces SB97-1 diversions to HUTF by \$2 million in FY 2008-2009 and FY 2009-2010.

Under current law, the owner of a water right may loan that right to the Colorado Water Conservation Board, and there are protections for such owners for the time when they end the loan and begin putting their water to beneficial use. This legislation may have the effect of encouraging some of these loans to convert to outright donations.

HB08-1396, Study Leadville Mine Drainage Tunnel (Scanlan, Wiens & Gibbs)

This bill authorizes the Department of Public Health and Environment to use the Hazardous Substance Response Fund to complete a study of the possible effects of water from the

Canterbury Tunnel adding to the mine pool that eventually feeds into the Leadville Mine Drainage Tunnel. The study is to include comparisons of short-term and long-term effects of vertical drilling to that of horizontal drilling. In response to the concerns expressed by Fremont County, this study is an appropriate action by the state to the environmental and public health and safety concerns that now exist.

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

Public Lands (PL)

SB08-071, Extend Forest Restoration Pilot Program (Gibbs, Scanlan)

CCI Position: Support

The Forest Restoration Program was established last legislative session to request experimental forest restoration projects that specifically protect water supplies. A technical advisory panel was set up to help process the grant proposals. This current bill extends the repeal of the pilot program from July 2008 to July 2012. Subject to sufficient funds in the operational account of the Severance Tax Trust Fund, \$1 million is appropriated for these forest restoration programs. Those counties with wildfire protection needs could benefit from these grants. This bill passed out of the House Agriculture Committee unanimously on Friday, April 18.

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

Taxation & Finance (TF)

HB08-1349, Collection of Property Taxes & Tax Increment Financing (Gagliardi, Windels)

CCI Position: Support

This is CCI priority legislation. It allows counties to offset any overpayment of property taxes to any local jurisdiction that receives such payments. This gives county treasurers the flexibility to offset future property tax overpayments to urban renewal authorities and downtown development authorities, which receive payments of property tax, but do not levy it themselves. The authorities are required to make arrangements to ensure that these payments are repaid by either setting aside reserves or entering into an IGA with the municipality that created them. CCI is working closely with Colorado Municipal League to address county needs, as well as, municipal interests. After several meetings and negotiations, the bill passed out of the House 62-1. There will be a couple more amendments offered in the Senate that are not substantive and just clarifying in nature for Denver Urban Renewal and Colorado Municipal League. The bill has passed through the House and is now in Senate Finance.

HB08-1358, PTO & PTA Sales Tax (Rice, Ward)

CCI Position: Monitor

Currently, parent teacher organizations (PTO) and associations (PTA) do not consistently pay sales tax on items acquired for resale. HB 1358 requires these organizations to pay state sales to retailers from whom the goods were purchased. This requirement is not applicable to items not intended for resale such as donations or homemade goods for silent auctions. The legislation is permissive in nature for local governments in choosing to impose the local sales

tax on such transactions. This bill and HB 1013 are similar in nature and will require a conference committee to reconcile the two bills.

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

Transportation & Telecommunications (TT)

SB08-213, Colorado Tolling Enterprise Powers (McElhany, M. May)

CCI Position: Oppose

This bill is part of the effort to alleviate the congestion on Interstate 70 during peak use times and all resulting problems. In particular, this bill gives authority to the board of the Colorado tolling enterprise to designate any portion of the highway between the Eisenhower-Johnson Memorial Tunnel and Floyd Hill as a tolling highway. It sets limits on the toll to be imposed and exempts vehicles registered in Clear Creek, Gilpin, and Summit counties from such tolls. This bill will create a fund from the tolls to provide a funding source for further research on alleviating congestion in the I-70 corridor.

The bill was amended in the appropriations committee to make the bill permissive in an attempt to make it more acceptable to the full senate. As of this writing, we are awaiting the bill to be heard on the floor for second reading. We are actively opposing the bill. There will be amendments for more county residential exemptions. Currently Gilpin, Summit, and Clear Creek counties' residents are exempted from the toll. Several more counties may be added. Many county commissioners testified against the bill in committee.

HB08-1249, Emergency Telephone Services 911 Charge (Rice, Kester)

CCI Position: Support

HB 1249 clarifies that the emergency telephone services' 911 charge applies to prepaid wireless and internet telephone services just as other phone services. The suppliers are ultimately responsible for these charges and can pass on the cost to the customer at the point of sale or by decreasing amount of available usage. This will increase the revenue to local governments in emergency telephone services. This bill has made it through both houses and is on its way to the governor.

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



NACo's 2008 Annual Conference

Remember to sign up for NACo's 2008 Annual Conference! This year's annual conference will be in Kansas City, Missouri July 11th – 15th.

You can register for the conference by going to www.naco.org and clicking the "Conference and Events" tab. Please note that CCI will be holding its "Colorado Caucus" meeting on Thursday, July 10th from 5:30 – 7:00 p.m. at the Kansas City Downtown Marriott Hotel. If you plan to attend this year's annual conference, please contact Gini Pingnot (gpingenot@ccionline.org) so that you are included on all of CCI's pre-NACo conference mailings.