

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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Session Wrapping Up But New Bills Still Being Introduced

Wednesday, May 7th - If this date looks familiar, it should. Wednesday, May 7th is *sine die* and marks the 120th day the legislature is allowed to be in regular session by Colorado's Constitution.

Although the session is wrapping up, the legislature is showing few signs of slowing down. In fact, many bills have been recently introduced, some of which will impact counties. This week's lead article highlights these "late bills" and why they are important to counties.

HB 1399 Agriculture Unclaimed Property Trust Fund Interest (Buescher, Isgar)

This bill changes the allocation of interest earned on the Unclaimed Property Tourism Promotion Trust Fund by distributing the money as follows:

- 10% to the Colorado Travel and Tourism Promotion Fund – for use by the Colorado Tourism Office to promote agritourism;
- 65% to the newly created Agriculture Management Fund – for use by the Commissioner of Agriculture to fund both program and employee costs of agricultural efforts; and
- 25% to the Colorado State Fair Authority Cash Fund – for use by the Colorado State Fair Authority toward the operation, maintenance, and support of the Colorado State Fair.

HB 1399, if passed, will channel an additional \$3.3 million to the Department of Agriculture (DOA). This funding will be used to support local weed management projects, local conservation districts, the Colorado Proud program and many other DOA

initiatives and staffing needs. Funding will not be used to carry-out the controversial Animal ID program (aka National Animal Identification System (NAIS)).

HB 1399 was introduced on Monday, April 14th. The bill was passed on second reading in the House on Friday, April 25th.

HB 1409 Medicaid Third Party Recoveries (Pommer, Johnson)

HB 1409 allows the Department of Human Services to ensure that third parties, which include health insurers, managed care organizations and others who are responsible for paying health claims, do so. HB 1409 is meant to utilize Medicaid funding to the fullest extent permissible to ensure that eligible individuals and the state recover payments owed to them by third parties.

HB 1409 was introduced on Tuesday, April 22nd. The bill was heard on Monday, April 28th by the House Health and Human Services Committee and referred to the Appropriations Committee.

HB 1413 Business Personal Property Tax (Lambert & Rice, Romer & Spence)

This bill gradually exempts fully depreciated business personal property from the tax rolls. Currently, the actual value of fully depreciated personal property is equal to 15% of the new replacement cost of the equipment. HB 1413 reduces the actual value of fully depreciated personal property over the course of four property tax years. The phase-in occurs as follows:

- 12% in 2009;
- 9% in 2010;
- 6% in 2011; and
- 3% in 2012.

Beginning in property tax year 2013, all fully depreciated property will be exempt from property taxes. The bill also specifies that counties with more than 30% of assessed value attributable to personal property will be exempt from the provisions of the bill.

HB 1413 will result in a multi-million dollar fiscal impact for both the state and for local governments. As a result of the School Finance Act, the state will witness an annual cost of roughly \$16.5 million once the five-year phase-in is complete. Local governments will be hit with an annual \$56.3 million impact in lost tax revenue following the five-year phase-in.

HB 1413 was introduced on Wednesday, April 23rd and was heard on Friday, April 25th in the House Finance Committee. Since there is a projected loss of revenue to counties, CCI testified in opposition on HB 1413. Representatives Lambert and Rice argued that the fiscal impact resulting from HB 1413 could be addressed if Rep. Romanoff's HCR 1014, a referendum that proposes to waive various constitutional spending and revenue caps outlined in Amendment 23 and TABOR, passes. Ultimately, HB 1413 was laid over until Tuesday, April 29th. This gives the house sponsors time to develop language that will "backfill" the roughly \$73 million revenue loss that the state and local governments, collectively, will witness under HB 1413.

SB 233 FML-funded Higher Education Projects (Windels & Williams, Riesberg & Marostica)

SB 233 establishes a process for identifying higher education capital construction projects that are to be funded from federal mineral lease revenues. Further, the bill allows the State Treasurer to enter into lease-purchase agreements for these projects. Since SB 233 implements

SB 218 Allocation of Federal Mineral Lease Revenue (Schwartz & Penry, Buescher & Balmer) and will, therefore, not take effect unless SB 218 passes.

SB 233 was introduced on April 21st. The bill has passed the Senate.

SB 240 Change Voter Registration Record Online (Gordon, Casso)

This bill requires the Secretary of State to establish an online system where individuals may register to vote, change their residence on their voter registration record, change or withdraw their party affiliation, or apply for permanent mail-in voter status. Currently, voters in Colorado register and make changes to their voter registration record by submitting a form to the county clerk in which they live. SB 240 requires the system to be implemented by June 1, 2009.

SB 240 was introduced on Tuesday, April 22nd. As introduced, SB 240 reflects, verbatim, the engrossed version of a bill Sen. Gordon introduced earlier this session, **SB 40 Online Voter Registration** (Gordon, Casso). CCI has an oppose position on SB 40. SB 240 was heard on Friday in the Senate State, Veterans and Military Affairs Committee and was referred, unamended to the Senate Appropriations Committee.

Other bills worth noting include **HB 1401 Voter Information Card to Each Eligible Voter** (Marshall, Gordon), **HB 1404 Study and Review Child Welfare System** (Stafford, Keller) and **SB 244 Transportation Infrastructure Preservation Act** (Tapia, Rice & McFadyen). These bills are reviewed on the following pages.

General Government (GG)

SB08-011, Trauma Care Funding (Morse, Massey)

CCI Position: Monitor

This is the last of the three trauma care funding bills introduced this session. The two previous bills, SB 211 and HB 1009 were both postponed indefinitely. Last Thursday in Senate committee, Sen. Morse offered a strike below amendment which removed the car registration fee to fund trauma care and replaced the language with an opt-out option for insured individuals. Additionally, the limit for required medical payment coverage was reduced to \$5,000 on all auto insurance policies.

Since the state ended no-fault insurance trauma care, county emergency services have suffered significant revenue reductions. The problem has been exacerbated by the rising number of Coloradans without health insurance. The result has been an increase of 205% in Medicaid charges for care related to auto injuries and a decrease in rural ambulance districts' abilities to provide necessary services.

HB08-1401, Voter Information Card Sent to Registered Voters (Marshall, Gordon)

This bill seeks to bring those individuals who were unable to vote due to difficulties in the 2006 and 2007 elections back on the voter rolls. Currently, if a voter does not vote in a general election, they are inactive and will not receive mail ballots automatically for future elections. This bill requires counties to send another postcard to all registered voters in the county. The information card would go to both active and inactive voters. The card would not be forwarded if the voter is inactive and does not reside at the address of record.

CCI has two concerns with this bill. The foremost is the cost to the counties. The county clerks estimate that the cost to the counties would be \$500,000 to send this additional card to voters since the counties pay the costs of mailings in elections. Counties are already able to send this card to active and inactive voters to contact those who did not vote in previous elections but wish to vote via mail in future elections. CCI is also concerned that the mailing to active voters may be forwarded, yet retain the polling place information for the original address, possibly causing voters to go to their previous polling places.

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

Health & Human Services (HHS)

HB08-1391, Mental Health Services Child Abuse Pilot (Romanoff & Buescher, Keller & Morse)

CCI Position: Support

This bill creates the Mental Health Services Child Abuse Pilot Program to provide mental health screening, evaluation, and services to children who are involved in a neglect or abuse case. The children have to be between the ages of four and ten, and the neglect or abuse cases had to have been confirmed by the county social services department in order to participate. These services are available to the children in these cases regardless of their placement after the investigation, whether it is back with the parents, at a foster home, or under court supervision. At least two counties will have to participate in the pilot program through applications submitted by the county social services departments and selected by the State Department of Human Services. The counties will have to commit available resources to participate in the program. Then, it is up to the State Department of Human Services to evaluate the pilot program and complete a report to the House and Senate health and human services committees.

The pilot approach is an excellent manner to determine and provide appropriate treatment for victims of child abuse and neglect. This approach will allow the state to identify best management and treatment practices, work with volunteer counties, and contain the impacts to those willing volunteers. In recent discussions, there is some misunderstanding regarding the resources necessary to qualify as a pilot county. From a discussion with the state, it is clear that smaller and low-income counties with fewer resources will still be considered for the pilot and should not be discouraged from developing their own pilot proposals. This is welcome news and makes the bill even more attractive to counties throughout the state.

SB08-183, Paternity DNA Testing Child Support (S. Mitchell)

CCI Position: Oppose

Currently, there is no recourse for challenging a judge's decision on child support matters once it has been determined by DNA testing. This bill requires the judge to change or stop an order for child support if an involved party requests it and DNA testing indeed proves the party is not the biological father. At the same time, the bill sets up conditions for exceptions to this requirement:

- if someone required to pay child support in the order has assumed the responsibility of the child knowing he was not the biological father;
- if someone required to pay child support legally adopted the child; or
- if the child was the result of assisted reproduction.

This bill gives parties the right to challenge if there is doubt about the parentage of the child and therefore calls into question the obligation of child support. This is of concern to counties because counties share the financial responsibility of the DNA tests and court appearances with the federal government. Counties bear 34% of the costs, which amounts to \$41.21 per DNA test and \$9.88 per court hearing.

More important to counties and child welfare advocates is the potential damage to children who lose a parental figure from DNA tests, long after the child was born. CCI has generally opposed the use of DNA paternity tests when a child has had an identified father for years, because the emotional impacts are severe and out of proportion to the impact of child support payments.

SB 183 was heard in House Judiciary on April 23, and was taken off the table. It is clear from the testimony and the questions of committee members that there are concerns about the language in the bill and possible unintended consequences. The bill will be up for action on Tuesday, April 29.

HB08-1404, Study & Review Child Welfare System (Stafford, Keller)

The Governor's Child Welfare Action Committee recommended this bill as part of the effort to protect the children of the state. In addition to creating a cash fund and requiring Colorado Department of Human Services (CDHS) reports to the relevant legislative committees, this bill contains specific mandates on county departments of human services. It requires the county departments to render information about their employees, such as "qualifications, work schedules, pay, duties, evaluations, training and corrective and disciplinary actions" upon the state's request. Counties are concerned about their ability to protect their employees, as well as exercising basic county control over employee matters. To this end, amendments require CDHS to treat this as confidential information. There are other concerns resulting from an extensive review by many county attorneys. With corrective amendments, we hope to be able to support this effort.

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 (MLRB) to regulate mining activities. It clarifies authority regarding 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 become 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 over the entire process.

HB 1161 has passed the Senate Local Government Committee and is awaiting action in the Senate Appropriations Committee. Testimony in support of the bill was excellent, though brief. The vote in Senate Local Government was unanimous. We continue to support this important legislation.

HB08-1346, Water Conservation Board Construction Fund (Curry, Isgar)

CCI Position: Support

HB 1346 takes money from the Colorado Water Conservation Board (CWCB) Construction Fund, as well as the Perpetual Base Account and the Severance Tax Trust Fund Operational Account to fund water projects. This removes the prohibition on the use of CWCB Construction Fund for instream flow rights acquisitions. Of particular interest to counties, the bill allocates \$60 million to build the pipeline on the Republican River to comply with the Republican River Compact with Kansas. The eastern plains counties in the river basin are grateful for resources to comply with the compact.

The bill has passed the Senate Agriculture Committee and the Senate Appropriations Committee. An amendment added in Senate Appropriations permits the funding of tamarisk control operations with any unspent funds, but in no way impacts the projects listed in the bill.

HB08-1405, Funding For the Colorado Water Institute (Fischer)

The Colorado Water Resources Research Institute at Colorado State University was renamed the Colorado Water Institute by the passage of HB08-1026. Since HB08-1026 expands the duties of the institute and a bill from 2007 only appropriated \$150,000 for FY 2007-2008, HB08-1405 increases that appropriation to \$500,000 from the Operational Account of the Severance Tax Trust Fund to the Water Research Fund of the institute for FY 2008-2009. Depending on the passage of HB08-1398, sections of the HB08-1398 will not take effect.

This is an interesting development that CCI will follow closely. It was unclear during consideration of HB08-1026 that it would require separate funding. We will look at the potential county impact and discuss concerns, if any, with the sponsor.

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

Public Lands (PL)

SB08-221, Bonding for Forest Health (Gibbs & Romer, White & Scanlan)

CCI Position: Monitor

SB221 allows the Colorado Water and Power Authority to use money collected from Colorado water providers to bond for forest health and watershed protection projects. The intent of the bill is to establish the authority's ability to bond and to allow smaller water providers to use larger water providers' credit rating to get a better return on their investment.

CCI has worked with stakeholders to ensure that the implementation of future funds will follow procedures established in previous forest health bills. The Senate sponsors did not add any amendments to address the concerns raised by the environmental community or other stakeholder groups involved with forest health. CCI would like to see, at a minimum, a five year sunset date established so there is an opportunity to review the progress of the funding

and the projects. Additional language concerning sideboards for the implementation of the forest health and watershed projects would also alleviate CCI and other stakeholders' concerns.

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

Taxation & Finance (TF)

HB08-1368, Taxation of Property Used to Produce Renewable Energy (Buescher, Brophy)

CCI Position: Support

The background of this legislation is that renewable energy producing property has enjoyed tax credits in state assessed property taxes when the energy that is produced is sold to other entities. The energy that the power company produces for its own use is not taxed by the state but is taxed by the county, and does not enjoy the same tax breaks. The tax change made by HB 1368 would allow the property to be assessed comparable to property that produces energy from a nonrenewable source. This bill directs counties to assess property used for renewable energy production for power company direct use (which is typically under two megawatts) in the same way that the state assesses property producing renewable energy for sale to other entities (which is typically more than two megawatts). HB 1368 also restates the sales and use tax exemption for components used to produce energy from a renewable source. CCI appreciates the sponsor and proponents' agreement to preserve this as a local option for counties that do not already exclude the property from their tax base.

HB08-1380, Method of Attributing Income to CO (Jahn, Shaffer)

CCI Position: Monitor

This bill changes the current formula for calculating taxable income for companies that have operations in multiple taxing jurisdictions. The current choice for these companies between the two-factor and three-factor formulas is eliminated by this bill. There is a distinction between business and non-business incomes. Business income is revenue from the main transactions of the company. According to this bill, business income would be apportioned by the ratio of sales made in Colorado to its total sales. Non-business income is revenue from all other sources, which can include rents, royalties, interests, dividends, or capital gains. For non-business income, there is a choice of apportioning to the appropriate state or apportioning the same way as business income. The bill establishes instances when certain non-business income should be directly apportioned to Colorado. Mutual fund service companies that used to have the two-factor or three-factor choice will now be subject to a different formula. The fiscal impact of this bill includes General Fund revenue reductions, which will consequently reduce SB97-1 diversion by \$1.6 million FY2008-2009 and \$3.2 million each for the next two years.

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

Transportation & Telecommunications (TT)

HB08-1278, Eminent Domain by RTD (Summers & White, Tochtrop)

CCI Position: Oppose

This bill limits the Regional Transportation District (RTD) powers of acquiring land through eminent domain. These powers can only be used for the purpose of providing public transit

and other related secondary purposes in the same effort. Once acquired, the ownership of property cannot be transferred for other purposes such as economic development. This bill clarifies the definition of "public transit purposes," and specifies structures such as parking do not constitute "public transit purposes." This bill will have impacts on the RTD's ability to proceed with FasTracks plans. CCI's objection to the bill was an amendment mandating the state or any political subdivision to participate in nonbinding mediation with the owner of the subject property prior to commencing an eminent domain action.

This bill was killed in the Senate Local Government Committee on 4-24-08.

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. Many county commissioners testified against the bill in committee. Ultimately, the bill was killed by the sponsor who laid over the bill until May 26. He wanted everyone to think of the bill as they sat on I-70 during the Memorial Day weekend.

SB08-244, Transportation Infrastructure Preservation Act (Tapia, Rice & McFadyen)

This bill imposes a new fee of \$6 per day on rental cars and classified personal property (amount depending on amount of imposed specific ownership tax) to be placed in a new transportation infrastructure preservation fund. The fund is to be doled out to local governments by the transportation commission for transportation infrastructure repairs and maintenance. Another new fee of \$25 on motor vehicle and \$15 on trailer registrations is imposed and placed in bridge safety trust fund, specifically to be spent on deficient bridges as determined by the federal highway administration. Additionally, the bill requires the Colorado Department of Transportation to post a map showing all bridges that are designated as deficient. The bill specifies for local governments that the projects funded by these two new funds are state-funded projects and are subject to competitive bidding practices. Counties can apply for up to 10% of the preservation fund and specific allocations lie within the discretion of the transportation commission. Another provision requires the fees be transferred to the highway users trust fund in any year when new enacted legislation is expected to reduce state sales and use tax revenues.

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



ANNOUNCEMENTS

NACo Launches FREE Green Government Webinars!

NACo (through the support of our Green Government Initiative sponsors) will be hosting a series of FREE green government webinars. The intended audience is any elected county official or county staff. However, anyone interested in learning more about the county's role in green government practices is encouraged to register. Participants will learn valuable background information on each subject, discover new resources, and hear case studies from various counties. Each webinar will cover a different green subject. The first webinar will be an introductory Green Counties webinar on May 7, 2008 and other topics will be presented throughout the rest of the year.

Get more information by visiting NACo'S Green Government Electronic Network at www.greencounties.org or contact Yilan Shen (yshen@ccionline.org) at CCI.

Feds Approve Colorado Communications Plan

Governor Bill Ritter announced that the U.S. Department of Homeland Security has approved Colorado's Statewide Communication Interoperability Plan (SCIP) and awarded the state \$14.3 million to help implement it. THE SCIP and federal funding will enhance and improve communication technology and capabilities for first-responders and public safety agencies across the state. Funds will be used to purchase digital trunked radios, communications towers and antennas, upgrades to emergency operations centers, and communications training and exercises for first-responders. More than 80 percent of the Colorado grant funds will go to local public safety agencies. Each agency will be required to provide 20 percent matching funds from non-federal sources for each project. The performance period for the grant is three years. "The projects that will be funded in Colorado through this grant award will make our public safety agencies better prepared for any incident that may occur within the state," Governor Ritter said.

Contact Andy Karsian (akarsian@ccionline.org) at CCI for more information.