

Legislative Report

CCI Meeting Reminder

All Steering Committee meetings are held at CCI.

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

CCI 2008

Summer Conference

June 9-11, 2008

Vail Cascade

Eagle County

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FML ALLOCATION BILL INTRODUCED

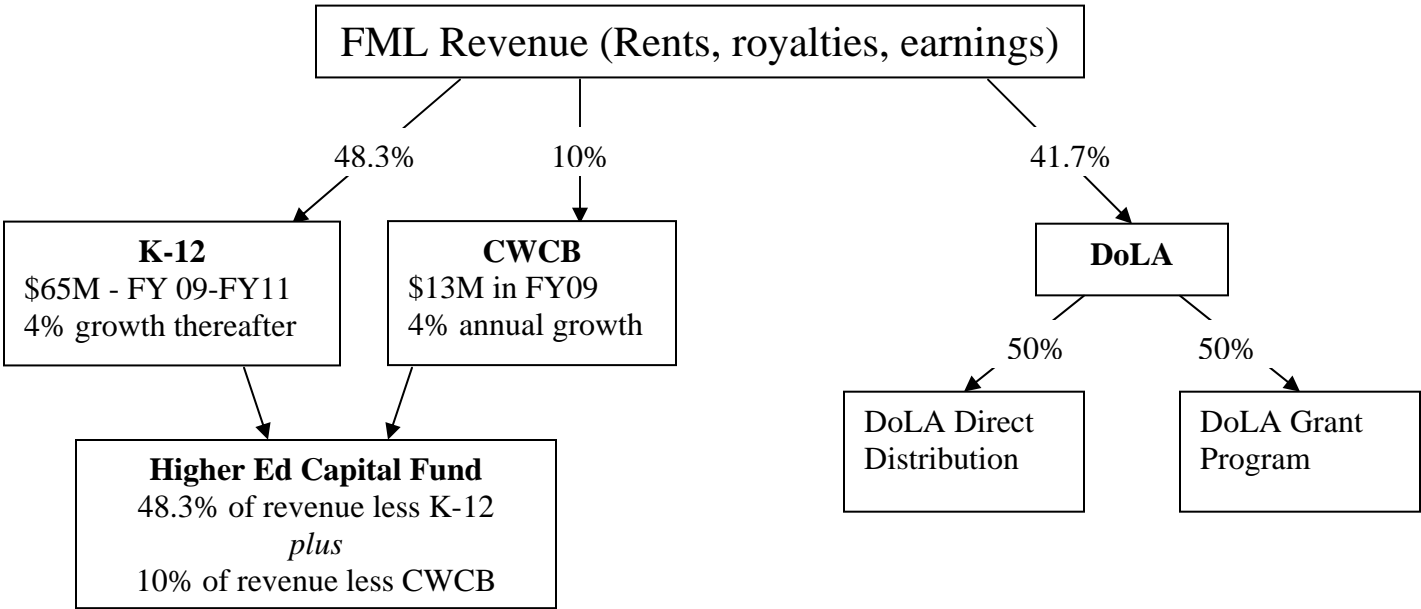
After months of discussion on how to revise the complex Federal Mineral Lease (FML) "cascade" formula, a bi-partisan group of legislators led by Senators Schwartz and Penry and Representatives Buescher and Balmer introduced SB08-218 on Thursday, April 3rd.

FML revenue consists of revenue the state receives from the federal government for drilling activities that occur on federal land. The state distributed \$114.8 million in 2005 and \$144.1 million in 2006 to local governments, schools, and state agencies. Current statute specifies that when distributing FML revenue, priority must be given to public schools and local governments socially or economically impacted by mineral extraction on federal land.

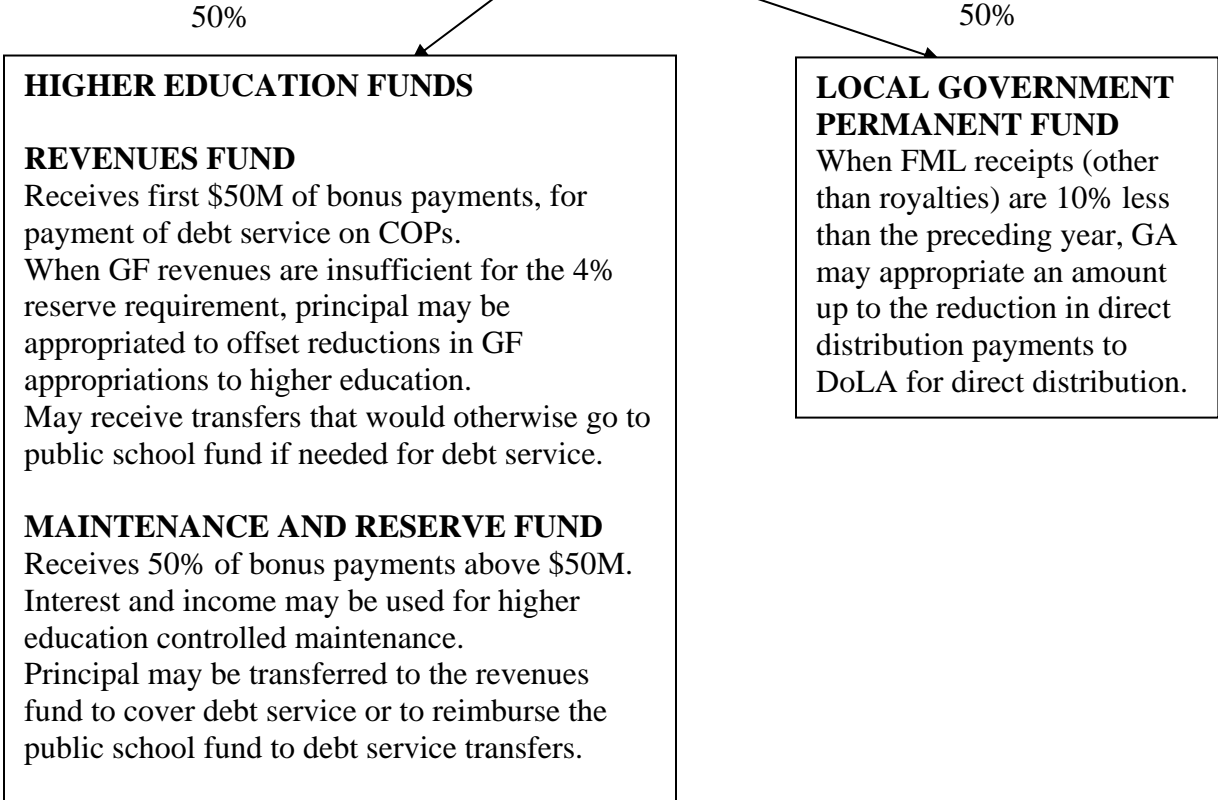
SB 218 attempts to modernize a formula that was first established in 1977. Unlike the current formula, SB 218 begins with the premise that FML rents, royalties, and earnings should be distributed differently than bonus payments. While rents are paid to reserve the right to extract resources, royalties and earnings consist of annual payments that track the productivity of drilled wells. Bonus payments, on the other hand, are one-time payments made to obtain the rights to mineral leases. A producer's actual bonus payment depends on many factors including expectations of future mineral prices and the size and quality of the mineral deposit. Since these factors vary from year to year, bonus payments often show great variation.

Separating revenue streams of rents, royalties, and earnings from bonus payments, they flow into two different distribution schemes. The following narrative describes the agreed upon proposal and the diagram on the next page illustrates it.

Flow Chart of FML Revenues – SB 218 SEBEC



FML BONUS PAYMENTS



FML Rents, Royalties and Earnings

In general, rents, royalties, and earnings are split with K-12, the Colorado Water Conservation Board (CWCB), and the Higher Education Capital Fund receiving the 60% of the share and DoLA receiving 40% of the share. More specifically, the 60% share is distributed as follows:

- 1.) K-12 receives \$65 million for the next three state fiscal years (SFY) and then, beginning in SFY 2012, this \$65 million is allowed to grow by 4% each year.
- 2.) CWCB receives \$13 million for SFY09 and then, beginning in SFY10, this \$13 million is allowed to grow by 4% each year.
- 3.) Higher Education Capital Fund receives the balance of what remains after K-12 and CWCB receive their share.

The 40% share is distributed as follows:

- 1.) DoLA direct distribution receives 50% of this share and revenues will be distributed based on the DoLA metrics established in HB08-1083.
- 2.) DoLA grant program receives the remaining 50% share. According to SB 218, when distributing this revenue, DoLA's executive director "shall give priority to those communities most directly and substantially impacted by production of energy resources on federal mineral lands and to grant applications that: a) are submitted jointly by multiple local governments or b) seek funding for a project that is a multi-jurisdictional project or that requires a substantial amount of funding."

FML Bonus Payments

FML Bonus Payments are split 50/50 between Higher Education and a new "Local Government Permanent Fund." Specifically, the 50% share that goes to higher education is parceled out as follows:

- 1.) A new "Revenue Fund" receives the first \$50 million. The primary purpose of this fund is to pay the debt service on higher education capital construction projects. Additionally, the fund's principal can be used as a "rainy day fund" to offset reduced appropriations to higher education in years when the state's general fund revenues are insufficient to meet the 4% reserve requirement.
- 2.) A new "Maintenance and Reserve Fund" receives the balance of the bonus payments above \$50 million. Interest and income generated by this fund can be used for higher education controlled maintenance projects.

The 50% share that is channeled to the new "Local Government Permanent Fund" may, at the discretion of the General Assembly, be distributed to DoLA when FML direct distribution receipts are projected to be 10% lower than the preceding fiscal year. If the General Assembly chooses to make this distribution, the revenues must be allocated to local governments based on the direct distribution metrics established in HB08-1083.

On Friday, April 4th, county commissioners discussed SB 218 in both the CCI Severance/FML Task Force and the CCI Taxation and Finance Steering Committee. Commissioners are concerned about the distribution of the bonus payments. Specifically, they requested that the 50% share that flows into the "Local Government Permanent Fund" be restructured as follows:

- 1.) 50% is distributed directly to impacted local governments to be held locally as a local government permanent fund; and

2.) 50% is held by the state as a rainy day fund from which local governments may request funding in certain circumstances.

Commissioners instructed CCI staff to work out the details with legislators, then they could support SB 218 with this amendment.

With roughly one month remaining in this year's legislative session, conversations and negotiations on SB 218 are likely to occur quickly. CCI will update commissioners accordingly and, if necessary, convene additional Severance/FML Task Force meetings.

General Government (GG)

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, which 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.

SB08-007, Jail Inmate Application Assistance (Windels, Stafford)

CCI Position: Monitor

This bill addresses the same problem as SB 006. Juvenile facilities and state facilities would work with the department of health care policy and financing (HCPF) to develop systems to facilitate processing Medicaid applications 90 days prior to an inmate's release date.

This bill also asks that a pilot program be set up with two interested county jails who would work with community mental health providers, HCPF, and county social services agencies to facilitate processing Medicaid applications 90 days prior to release.

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

Health & Human Services (HHS)

HB08-1250, County Social Services Funds Relief (Pommer, Johnson)

CCI Position: Support

The county contingency fund was created to supplement social services funding in counties where the mill levy was insufficient as a funding source. This bill changes the formula used to determine which counties are eligible to receive funds from this source, as well as changing the name of the fund to the county tax base relief fund.

This bill will permit state assistance funding for the most tax-burdened counties and would permit the JBC to move the balance of the county contingency fund to the county administration line, where these new funds will be available without local matching responsibilities. Furthermore, all funds moved to county administration are then eligible for federal matching funds, therefore spreading the dollars much further. County social service directors have worked with CCI and the Colorado Department of Human Services in crafting this legislation.

The Senate Local Government Committee heard HB 1250 last week, passing it on unanimously to the Committee on Appropriations. There were no amendments, so the bill continues forward as introduced in the Senate. This is important legislation that makes long overdue corrections to ensure that the poorest counties are properly assisted through these funds, and to provide the higher level of county administration called for in the workload study. All of this occurs under HB 1250 with no significant impacts on the state's budget.

CCI appreciates the efforts and excellence of the Joint Budget Committee and the sponsors in moving this important legislation forward.

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 Colorado 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 Health and Human Services Committee on Thursday, March 20, 2008, where amendments addressing the CCI Tax and Finance Steering Committee's concerns were added to the legislation. The bill then 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.

SB 194 is now calendared for hearing in Senate Appropriations Committee on April 9, at 7:30 a.m. This committee will consider the sufficiency of the fiscal provisions in the bill, and as is their practice, will consider fiscal impact in the larger context of state and local funding. CCI appreciates this committee, which diligently works hard and arrive very early every week to assure that the budget is always balanced.

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 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.

HB 1161 has now passed the House. It will be introduced in the Senate and assigned to a committee as soon as the Senate is done working on the Long Bill. As HB 1161 comes from the House, it includes uranium mining of all sorts in the more intensive review category for MLRB. Given the growth in uranium mining and prospecting, as well as the impacts from inappropriate reclamation, this is a welcome amendment to the bill.

HB08-1350, Facilitate Financing of Renewable Energy Projects (Madden, Romer) CCI Position: Monitor

This legislation facilitates the financing of renewable energy projects by local governments and the clean energy development authority. It updates the authority's ability to issue bonds for such projects and authorizes the removal for cause of members of the board of directors.

This creates funding and a bonding system to provide greater renewable energy options on the local government level. The bill is permissive in nature, and would provide additional tools for counties and municipalities in this area of improving clean energy options. The bill has passed the House, and as it comes to the Senate it provides new tools and financing flexibility for residents who may lack the fiscal ability to undertake energy efficiency upgrades. The financing structure provided in the bill is both fiscally sound and innovative.

SB08-117, Limit Local Building Permit Fee for Solar Panels (S. Mitchell, McNulty)
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, because a cap or mandatory fee rarely reflects the varying 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.

The House Local Government Committee adopted amending language during debate on SB 117 that now requires solar energy permits to be capped at actual cost. Actual cost allows counties to recover their costs, removing the potential subsidization that might have occurred if the bill proceeded as it was introduced. This was an excellent resolution to the concerns of both the alternate energy community and the local governments who must carry out inspections of these often complex systems.

SB 117 went back to the Senate, where the sponsor rejected the House amendments and requested a conference committee. The conference committee agreed to an amendment that does two things: it now includes home rule cities in the bill's scope, and the actual costs are replaced with a cap of \$500 or actual cost, whichever is less. This decision leaves the counties with a real and significant policy dispute, because counties hold local fees to be one of the most fundamental of local control issues. Directions from the legislature on how and what fees are charged by counties and cities is simply inappropriate, no matter how appealing the cause.

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

Taxation & Finance (TF)

SB08-158, Inclusion of County Land in Urban Renewal Areas (Tochtrop, Hodge)
CCI Position: Support

This is a CCI legislative priority. SB 158 allows unincorporated portions of a county to be included in a contiguous urban renewal area in a municipality. Such an inclusion requires actions on the part of the county commissioners and the consent of all real property owners involved. The county commissioners must declare the area to be blighted. They must also submit a proposal to the county planning commission to be sure that the project complies with the county master plan, hold a public hearing, and notify the county assessor of any division of taxes. This will be helpful to counties in redeveloping "brownfield" properties that are not incorporated into municipalities. This bill has been signed by the governor.

SB08-170, Tax Increment Finance and Downtown Development Authority (Bacon, Buescher)
CCI Position: Support

This allows a municipality to pass an ordinance to extend the period that a downtown development authority (DDA) is able to collect tax increment finance (TIF) revenue. The

amount of time could be extended only in the last 10 of the 30 year lifespan of the DDA. The DDA's lifespan could be extended 20 more years under these conditions: the base valuation of the area is forwarded 10 years from the initial time of the DDA's formation on the first day of the extension, and the valuation is rolled forward 1 year for every year after the first 10 of the 20 year extension. The TIF revenue is split evenly between taxing jurisdictions within the district and the DDA, and it is up to the taxing jurisdictions to divide their share among themselves.

While counties will still be losing portions of property tax revenue due to the use of TIF, this bill at least allows counties to be able to collect taxes on a more updated valuation of the area. The bill is currently in Senate Appropriations.

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

Transportation & Telecommunications (TT)

HB08-1354, Authorize RTD Private Activity Bonds (Levy)

CCI Position: Support

This is a permissive bill for local governments, as well as the state and other subdivisions, because it gives them the authority to enter into loan agreements with contractors on transportation projects that are being financed by private activity bonds (PAB). It allows the regional transportation district (RTD) to take advantage of new federal money and legislation that have been established to allow the use of PAB's for transportation projects. Since the RTD has eligible projects in the FasTracks program, this bill brings RTD authorities in line with federal law to let them issue PAB's without voter approval. It gives local governments options when transportation corridors are being developed in their jurisdictions. The bill has passed the House Transportation Committee.

SB08-215, OIT Broadband Telecom Map (Schwartz, Riesberg)

CCI Position: Monitor

This bill calls for the creation of a broadband telecommunications and information services map. It would be the responsibility of the chief information officer of the office of information technology in connection with the public utilities commission and the governor's innovation council to identify these areas in attempting to branch services to unserved areas. This map is to serve as an inventory of service areas. The inventory and related report will be commented on by the public and submitted to the General Assembly.

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