

# CCI LEGISLATIVE REPORT

COLORADO COUNTIES, INC

FEBRUARY 22, 2011

## CCI Meeting Reminder

All steering committee meetings are held at CCI.

### Thursday, March 17

- 9:00 – 11 a.m.  
General Government
- 11:00 – 12:00 p.m.  
Tourism, Resorts & Economic  
Development
- 12:30 – 2:00 p.m.  
Taxation & Finance
- 2:00 – 3:30 p.m.  
Transportation &  
Telecommunications

### Friday, March 18

- 9:00 – 11 a.m.  
Health & Human Services
- 11:00 – 12:00 p.m.  
Agriculture, Wildlife & Rural  
Affairs
- 12:30 – 2:00 p.m.  
Land Use & Natural Resources
- 2:00 – 3:30 p.m.  
Public Lands

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800 Grant St., Suite 500  
Denver, CO 80203  
Ph) 303.861.4076  
Fax) 303.861.2818  
[www.ccionline.org](http://www.ccionline.org)

## Mail Ballot Bill Withdrawn – Counties Look to 2012

The issue of allowing counties to go to an all mail ballot system for general elections has been a topic of policy debate within CCI for the last couple of years – especially given the rising costs of running elections in this state. This issue is further complicated by the fact that many county clerks need to begin purchasing and certifying voting machines for the 2012 general election. Continued uncertainty regarding *how* counties are going to conduct future elections (mail ballot versus voting booths) makes these purchases risky at best.

Conducting elections by mail ballot represents significant cost savings to counties, with recent Legislative Council estimates showing counties could save \$8 million per election statewide by going to a mail ballot system. Moreover, two-thirds of the voters in the state are *already* choosing to vote by mail, further proving that mail balloting is an idea whose time has come.

Following a series of meetings last summer, CCI's members took the step of adopting language in the 2011 CCI Policy Statement advocating for a county option to go to all mail ballots for general elections if a county decided that was the prudent course of action. CCI and the Colorado County Clerks Association met to discuss the issue last fall, and the Clerks Association approached Rep. Carole Murray (a former Douglas County Clerk and Recorder) about carrying legislation on mail balloting this session.

The subsequent bill introduced by Rep. Murray would have dictated that all counties in Colorado mail out ballots to the voters, and then give each voter three options: 1) mail in their voted ballot; 2) drop off their voted mail ballot in person at a service center; or 3) return their un-voted mail ballot and request to vote in a traditional voting booth. The bill offered an opt-out provision for Category V and VI counties if they could demonstrate that running a traditional election was a cheaper alternative than mail balloting. While supportive of the general mail ballot concept, CCI was expecting an opt-out provision for **all** counties and

ultimately voted to monitor the bill in hopes of negotiating with the sponsor on an amendment permitting counties to decide for themselves.

This “county opt-out” issue notwithstanding, other concerns had been raised about the mail ballot legislation. Newly-elected Secretary of State Scott Gessler has repeatedly raised concerns about the potential for voter fraud. The various political parties are concerned because of the game-changing nature of mail balloting with respect to political campaigns and the timing of advertising and “get-out-the vote” efforts. Still others have voiced concerns about potential disenfranchisement of certain sectors of the voting populace that are somewhat transient (students, etc.) and difficult to reach by mail. After a number of discussions with opponents of the bill, Rep. Murray asked that HB11-1131 be withdrawn from consideration this session. CCI appreciates Rep. Murray’s efforts on behalf of counties and is committed to working with her and the various stakeholders over the summer to address some of the aforementioned concerns and craft legislation for 2012 that meets the needs of counties and the voting public.

## **General Government (GG)**

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### **HB11-1090, Ballot Language Clarification (Court)**

#### **CCI Position: Oppose**

HB11-1090 would have established a uniform ballot title format for initiated and referred measures by adding bulleted points and additional spaces to make ballot language more readable. It would also have clarified the language on the ballot such that a “yes” vote was a vote *for* a measure, and a “no” vote was a vote *against* a measure. CCI argued that while making it easier for voters to read and understand ballot questions was of public benefit, the resulting unfunded/underfunded mandate it created for counties was problematic.

The addition of bulleted points and line spaces would have added additional pages to the ballot, costing counties literally hundreds of thousands of dollars (per election) in additional printing and postage costs. An amendment to the bill in the House State, Veterans and Military Affairs Committee provided a small bit of relief by requiring the state to reimburse counties two cents per ballot question for each registered elector (a cost to the state of \$600,000 per general election). Unfortunately, this provision did not adequately address the additional costs driven by the bill.

The bill was postponed indefinitely by House Appropriations on Friday, February 18.

### **HB11-1135, Regulation of Bail Bonding Agents (Casso)**

#### **CCI Position: Oppose**

This legislation would have moved regulation of bail bonding agents away from the Division of Insurance within the Department of Regulatory Agencies and placed it under a newly-created board. The bill would have also set a \$15 fee for bail bond processing but only allowed the local law enforcement authority to retain \$5 of that fee to cover processing costs. The remainder would have to be turned over to the local school district. The bill was postponed indefinitely in House Judiciary on Tuesday, February 15.

## **HB 11-1154, County Registration of Businesses (Hamner, Morse)**

### **CCI Position: Support**

HB11-1154 was enabling legislation expanding county powers by allowing counties to conduct general business registration in large unincorporated communities (such as the unincorporated town of Edwards in Eagle County). The grant of power was permissive in nature and could have helped counties as they plan for workforce housing and conduct economic development in their regions. It would also have helped counties to better forecast sales tax collections and led to more accurate property tax assessments by the county assessor. The bill was postponed indefinitely during a hearing in the House Local Government Committee. HB11-1154 was a CCI Legislative Priority for 2011 and CCI thanks Rep. Hamner for her sponsorship and support.

## **SB11-117, Limiting Local Governments (Mitchell)**

### **CCI Position: Oppose**

This legislation would have placed restrictions on local governments in a number of areas, including the use of automated vehicle identification systems. The bill would also have prohibited local governments from acquiring private property and then transferring it to another private party. The bill was defeated in Senate Local Government on Thursday, February 17.

*Questions or Comments? Contact Eric Bergman at 303.861.4076 or [ebergman@ccionline.org](mailto:ebergman@ccionline.org) or Pat Ratliff at 303.668.0264 or [patratliff.associates@gmail.com](mailto:patratliff.associates@gmail.com).*

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

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### **SB11-171, Concerning a Database to Track Substantiated Allegations of Mistreatment of at-risk Adults by Caretakers (Aguilar)**

#### **CCI Position: Pending**

This legislation creates a new database tracking system for individuals who have been found to have mistreated at-risk adults. This new system will be similar in type to the TRAILS system which tracks those found to have abused or neglected children. The intent is to provide employers of care facilities with a database which can provide information regarding the background of potential employees. This is a laudable goal and a good idea. The problem is that there is no funding available for a new, discrete information system, and our experience has been that these systems can be very expensive, difficult to maintain, and labor intensive.

The bill intends to protect at-risk adults, and this is a responsibility that counties already share, under current law. Specifically, here are some of our concerns with SB11-171.

- It is dependent upon grants, donations, gifts and federal funding. We aren't sure what federal moneys will be available with the current federal budget process underway. It has been our experience that it is impossible to create and maintain programs of this nature with gifts, grants and donations, without long-term financial commitment.
- No one is required to use the database; if a name is on the database, that person can still be hired.
- It doesn't include financial exploitation.

- It only deals with “caretakers”; which is defined in the statutes to mean spouse, guardian, or fiduciary. This only covers 23% of perpetrators, so 77% of actual perpetrators may not be on the database.
- County human services departments would have to provide the notices to the perpetrator, would have to appear before the administrative law judge, and would have to enter the information into the database. Under SB11-171, the state just monitors the database.
- By comparison, the TRAILS database for perpetrators costs \$800,000 annually to maintain.

Finally, as introduced, there is no funding for the counties’ new responsibilities, creating a major unfunded mandate. CCI will discuss the legislation with the State and with stakeholder groups to resolve these concerns, if possible.

**SB11-124, Concerning the Transfer of Unspent County TANF Reserves to a County (Hodge, Gerou)**

**CCI Position: Support**

SB11-124 is a JBC bill, requested by CCI, which would change the reserve caps now created on counties’ TANF reserves. More importantly, the bill permits counties to share their TANF reserves with counties who have none. Currently there are seven counties who are at zero, or so close to zero as to be negligible. Under the current law counties are unable to transfer TANF funds among themselves at the end of the fiscal year, and this relief is desperately needed.

The bill was heard in Senate Finance, on February 10, and was passed unanimously to the floor for second reading, consent calendar. Based upon a revised fiscal note that indicates the need for either an appropriation clause or a supplemental, in order to release the \$700,000 in current reserves back to the counties, the bill will probably need to go to the Senate Appropriations Committee.

CCI is working hard to make sure legislators understand that this bill is not about creating a large reserve account, but is about permitting counties the flexibility in dealing with reserves to keep us from spending county-only property tax revenues to keep TANF programs going, as required by law.

Counties are the only governmental entity in the state that spend revenues to match and draw down federal TANF funds, yet the current law permits a cap to limit the reserves, transferring them instead to the CDHS long-term reserve for appropriation to other state government needs, such as CBMS, refinancing Child Welfare, and other appropriations. Only a tiny portion of the funds have gone to the Statewide Strategic Use Funds (SSUF), which provided grants to worthy projects. The SSUF is now completely swept from the budget to meet GF shortfalls. The remaining long-term reserves are not being used to serve TANF eligible individuals in the direct fashion that county services provide.

CCI urgently requests your support and consideration of the growing caseloads and pressures to counties’ budgets in this difficult time. Please support SB11-124.

*Questions or Comments? Contact Gini Pingnot at 720.255.8941, [gpingnot@ccionline.org](mailto:gpingnot@ccionline.org) or Pat Ratliff at 303.668.0264 or [plr45@aol.com](mailto:plr45@aol.com).*

## Land Use & Natural Resources (LUNR)

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### **HB11-1179, Onsite Wastewater Treatment Systems (Gerou)**

#### **CCI Position: Oppose**

This bill is an attempt to tackle some of the complex issues surrounding individual sewage systems in Colorado. Over the past few years a group of dedicated stakeholders has struggled with how to address the variety of issues concerning the use of septage systems in Colorado's diverse geography. Currently, the Colorado Department of Public Health and Environment sets minimum standards that local public boards of health adopt. In many areas, the local governments have adopted more stringent rules. The stakeholder group debated over whether to have the state adopt rules to regulate some aspects of these systems, or amend the current statutory guidelines. General opinion of the group held that the statutes should be amended, but a minority group of stakeholders instead brought HB11-1179 forward to have the state implement new rules.

HB11-1179 would allow the state to establish new statewide minimum standards for seven new regulatory provisions through rulemaking, more than doubling the number of areas the Department would regulate. 'Design, site evaluation, permitting, operation and management' are some of the new categories the state will now have control over when creating statewide standards. Additionally, the bill removes the local government's ability to set standards for their community, and instead allows the state to 'establish criteria and minimum standards for variances' through rulemaking.

The counties and local boards of health take water quality protection very seriously, however, they are asked to trust the state to not impose additional regulations. Too many times in the past, counties have agreed to minor rules to allow 'flexibility and clarity' only to be saddled later with mandates and red tape. The stakeholder group is ready and willing to do the hard work necessary to provide that flexibility and clarity in statute, and shouldn't be held hostage by a third party. The local governments and homeowners are the ones who will wind up paying the bill in the future.

*Questions or Comments? Contact Andy Karsian at 303.883.9381 or [akarsian@ccionline.org](mailto:akarsian@ccionline.org).*

## Public Lands (PL)

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### **HB11-1218, County Creation of Federal Mineral Lease Districts (Baumgardner, White)**

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

Throughout Colorado, the federal government allocates payments to counties to help manage federal public lands in their borders. This payment is the Payment In Lieu of Taxes (PILT). Counties rely on this annual PILT payment to provide law enforcement, road and bridge work and a variety of other services to help keep public lands in Colorado safely maintained. Two years ago, due to changes in state and federal law, the Department of Interior began deducting a county's federal mineral lease (FML) payment from the county's PILT payment, thereby reducing (by millions of dollars) the amount of money the counties receive from the federal government.

For over twenty years, Utah has used a special district mechanism to that allocate FML dollars, instead of the county, which protects that money from being deducted from the county's PILT payment. HB11-1218 would customize Utah's special district model and allow counties in Colorado to create a federal mineral lease district for single counties.

The district will not have taxing authority and would allocate only the county's distribution of FML money. It is possible that the county and municipalities could combine their funds to address larger energy impacts in the county, but all participation within the district is voluntary. The district would have control of the money, instead of the county, and this would prevent millions of dollars in federal payments from going to other states.

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

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

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### **SB11-159 Distribution of State Share of Limited Gaming Revenue (Steadman, Ferrandino)**

#### **CCI Position: Oppose**

This bill reduces the amount of funding available for eligible local governments through the Local Government Limited Gaming Impact Fund. In the absence of this bill, roughly \$6.2 million would have been available to eligible local governments this year. SB11-159 reduces available funding to roughly \$3.8 million in years when the state's total share of gaming dollars amounts to \$48.5 million.

There were numerous attempts to amend SB11-159 over the last week and a half. The two amendments that were successful originated from Sen. Jeanne Nicholson and Rep. Bob Gardner. Senator Nicholson's amendment states that in years when the state's total share of gaming dollars is more than \$48.5 million but less than \$51.5 million, these 'extra' dollars (up to \$3 million in total) must be allocated to the Local Government Limited Gaming Impact Fund. Rep. Gardner's amendment builds on Senator Nicholson's amendment. It states that in years when the state's total share is more than \$51.5 million, all the eligible grant programs that benefit from this funding stream – including the Local Government Limited Gaming Fund – will get a share of the funding. This is a change from the original version of SB 159 which would have diverted any 'extra' dollars to the state general fund.

CCI is extraordinarily grateful for Sen. Nicholson, Rep. Gardner and everybody else who spoke out about the importance of these dollars to local communities impacted by gaming. And while the dollars available in this year's Local Government Limited Gaming Fund will be essentially half of what would have been available in the absence of SB11-159, there is the potential for additional dollars when the state's total share grows above \$48.5 million.

Thank you to Sen. Nicholson and Rep. Gardner for your leadership.

### **SB11-050 Value of Condemned Conservation Easements (Roberts, Gerou)**

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

SB11-050, a CCI initiated bill, states that when all or a portion of property that is subject to a conservation easement is condemned, just compensation must be paid for the interest that is taken as if the interest is unencumbered by the conservation easement. CCI is engaged in on-going conversations with Xcel, Tri-State, Black Hills and other utilities to clarify that the bill is limited to just compensation only for the interest that has been taken and does not require compensation for the entire fee simple interest in the property if only an easement interest is taken. The terms of each conservation easement are different. Some allow for right-of-ways and development activities while others do not. Utilities have argued, and we agree, that they – and all other condemning authorities - should only be required to pay just compensation to a conservation easement holder when an interest protected by the conservation easement has been taken. SB11-050 passed out of the Senate Agriculture and Natural

Resources Committee on Thursday, February 17, and CCI will continue to work with the bill's sponsors to continue to address some of the concerns raised during the committee hearing.

*Questions or Comments? Contact Gini Pingnot at 720-255-8941, [gpingnot@ccionline.org](mailto:gpingnot@ccionline.org) or Bill Clayton at 303.884.7618, [bill@lombardclayton.com](mailto:bill@lombardclayton.com).*

## **Transportation & Telecommunications (TT)**

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### **HB11-1210, CDOT Recommendations on I-70 Corridor (Hamner, Nicholson) CCI Position: Support (If Amended)**

As amended, this legislation would require that by December 20, 2011, the Colorado Department of Transportation (CDOT) make prioritized recommendations to the General Assembly on ways to improve mobility in the I-70 mountain corridor. The recommendations should include cost estimates and should be prepared in consultation with local government and business community input. CCI's members are supportive of this legislation, but voiced concerns about the possible effect of the bill on current negotiations with CDOT – specifically on the opening of hard shoulders. The amended bill was passed out of the House Transportation Committee and is awaiting second reading on the House floor.

### **SB11-095, Repeal of FASTER (Grantham, Conti) CCI Position: Oppose**

SB11-095 would have repealed the “Funding Advancements for Surface Transportation and Economic Recovery” (FASTER) Act, except for the portion dedicated to bridge construction, and replaced it with a tolling authority. The repeal of FASTER would have eliminated millions of dollars in local transportation funding and crippled the newly created Division of Rail and Transit. A strike-below amendment was offered by the sponsor during a hearing in Senate Transportation, but the bill was defeated on a 5-3 vote.

*Questions or Comments? Contact Eric Bergman at 303.861.4076 or [ebergman@ccionline.org](mailto:ebergman@ccionline.org) or Tony Lombard at 303.884.9113 or [tony@lombardclayton.com](mailto:tony@lombardclayton.com).*