

CCI LEGISLATIVE REPORT

COLORADO COUNTIES, INC

FEBRUARY 28, 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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Running Against the Wind

Colorado is blessed with a wealth of natural resources and as with any wealth, no matter what form it takes, it must be managed well for widespread benefits. When it comes to renewable energies however, Colorado's wealth management strategy lags behind that of neighboring states. Specifically, the lack of transmission lines for wind and solar energy in Colorado threatens the state's competitive standing in the West. The reasons for Colorado's lack of transmission infrastructure involve a complex blend of regulations, incentives and industry interests. Problems ranging from a lack of rural development planning in the state, geographic difficulty to energy markets and the cost of transmission lines, all prevent easy solutions.

Two bills in particular illustrate this lack of cohesion which continues to hamper the state. The first, SB11-045, missed the mark completely, and the second HB11-1228, got closer in addressing a strategic approach towards energy development, yet it died in the first committee on a party line vote.

SB11-045 proposes to study the feasibility of a statewide transmission line siting authority. The authority would have the power to circumvent all local land use regulations and private landowner rights. The study, paid for by industry, would also look at how to reduce the timeframe for permitting transmission lines at the local level. The irony is not lost on the counties that for years have begged and negotiated for transmission lines. Proponents of the bill offer one example in the last ten years of a county slowing transmission line development. SB11-045's solution is in search of a problem, while the counties' problems continue to lack answers.

HB11-1228 recommended a study of the opportunities for local distributive renewable energy development. By focusing on local economic development for renewable energy, a plan for jobs, education and a strategic path towards utilization of Colorado's renewable wealth could have occurred. If Colorado's energy wealth is large, the mountains blocking the path to energy markets are even

larger. Unfortunately, the transmission path for renewable energy doesn't go straight to California. Instead, Colorado has the opportunity to develop a truly green state, where the state relies on its own energy instead of piping it miles away. Industry would disagree, however, due to the efforts put forth in killing this study.

One bill would study an answer in search of a problem and another bill dies while trying to focus interest on what Coloradans can do to help Coloradans. Counties know well the complexities of the energy market. Yet, in the topsy turvy world under the dome, the strategic management of Colorado's renewable energy wealth continues to have nowhere to go.

General Government (GG)

HB11-1063, Animal Welfare and Control (McKinley)

CCI Position: Oppose

HB11-1063 would have made a variety of adverse changes to the animal welfare laws concerning animal control officers, the bonding requirements for animals seized during a neglect case and reporting requirements. The bill would have required local animal control agents to obtain additional hours of training at an estimated cost to local governments of over \$340,000. The bill was postponed indefinitely by the House Agriculture, Livestock and Natural Resources Committee after several hours of testimony.

HB11-1108, County Coroner Review Commission (Fields, M. Carroll)

CCI Position: Oppose

This legislation would have created a 13-member commission to examine the duties and responsibilities of the office of county coroner and make recommendations on whether the position should be appointed rather than elected and on whether a medical examiner position would be more appropriate. The bill was postponed indefinitely in the House Local Government Committee on Wednesday, February 16.

SCR11-001, Ballot Measures (Shaffer, Spence)

CCI Position: Support

This concurrent resolution would place a measure on the 2012 statewide ballot, asking voters to raise the vote threshold necessary for amending the state constitution in subsequent elections. As drafted, the measure also changes the signature-gathering standards for getting a question on the ballot and requires that legislators seeking to undo a statutory change brought about by a ballot measure would need a two-thirds vote instead of the standard simple majority to amend the statutes in question. The resolution has bipartisan support and has been on a fast track through the legislature, getting through the Senate and House in just ten days. The House amended SCR11-001, lowering the percentage of votes needed to override a ballot-based statutory change in the General Assembly from two-thirds down to 60%. The Senate will now need to consider the change made by the House and either concur or call for a conference committee.

Questions or Comments? Contact Eric Bergman at 303.861.4076 or ebergman@ccionline.org or Pat Ratliff at 303.668.0264 or patratliff.associates@gmail.com.

Health & Human Services (HHS)

HB11-1181, Concerning the Department of Human Services Child Fatality Review Team (Kefalas, Newell)

CCI Position: Support

HB11-1181 is the codification of the Colorado Department of Human Services (CDHS) child fatality review team procedures, definitions, responsibilities and activities. This legislation brings greater clarity to the definitions of “county involvement” in a child fatality, vastly improves the time frames for various elements of investigations and results would be shared. CCI has been involved from the beginning with Rep. Kefalas on this important legislation and believes this is an excellent change to the child fatality review system.

The bill passed the House unanimously, and with the addition of CCI Senate Sponsor, Sen. Newell, the bill will now proceed through the Senate. CCI looks forward to working with Sen. Newell and the Senate toward passage of this important legislation.

HB11-1196, Concerning Measures to Increase Flexibility in Funding Services for Families (Summers, Foster)

CCI Position: Support

The bill makes several changes to county practices and funding for social services. First, the bill allows counties to provide family preservation services to families who, without appropriate intervention services, may become involved in the child welfare, mental health and juvenile justice systems. The Department of Human Services (DHS) is required to consider a county's expenditures on preventative services and the number of families served when determining the annual child welfare funding allocation to counties.

The bill increases flexibility for counties in paying for social services in several ways. First, counties are authorized to provide family preservation services on a preventative basis. This may result in increased up-front costs, but could result in future savings and cost containment if the preventative services are effective in keeping clients out of the child welfare, mental health and juvenile justice systems. The scope and amount of preventative services provided are at the discretion of the county.

This bill, brought by Arapahoe County and a number of other counties, would create greater flexibility in the use of federal funds in working to prevent families from falling into the full child welfare system when they are at a vulnerable point. Many counties believe this prevention approach will ultimately result in great savings as well and better outcomes for families.

The fiscal note prepared by Legislative Council staff was something of a surprise in that the staff determined an impact to the state of \$125,000 and a partial FTE in order to accommodate changes to TRAILS. Work is underway to resolve this unintended fiscal impact to the state.

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

CCI Position: Oppose as an unfunded mandate.

CCI reported on this bill in the last *Legislative Report*, raising concerns about the fiscal and workload impacts to counties of adding this new system to the state's protection of at-risk adults. CCI's

concerns were with the liabilities of listing an alleged perpetrator on a black list, effectively preventing such persons from any future employment in the care giving field. Without due process this is a proposal fraught with difficulties.

The bill was heard this past week in Senate Health and Human Services Committee. There was a great deal of discussion and the bill was eventually laid over to a future hearing date by the sponsor.

It is hard to imagine how this legislation can be amended to eliminate local government workload impacts and liability, but CCI will be available for any subsequent discussions.

Questions or Comments? Contact Gini Pingnot at 720.255.8941, gpingnot@ccionline.org or Pat Ratliff at 303.668.0264 or plr45@aol.com.

Land Use & Natural Resources (LUNR)

SB11-045, Concerning Streamlining Electric Power line Siting, (Johnston, Levy)

CCI Position: Oppose

The original SB11-045 proposed a new entity that would be responsible for siting future transmission lines in Colorado. The strike below now directs a taskforce to study the feasibility of a siting committee and ways of streamlining local government land use permitting.

CCI strongly opposes studying the idea of a statewide siting authority. The purpose and intent of an authority is not to find a way to build transmission lines, but rather to implement a way of circumventing all local land use regulations and private land owners' rights. The counties are, and have always been, willing to discuss how to streamline regulations and permitting on the local level. The idea of a siting authority with the ability to dictate transmission line siting on locals and landowners, however, goes against more than a hundred years of tradition with the counties protecting the land within their borders.

Local governments are not the obstacle this bill and utility providers paint them as. There are existing laws that require local governments to act on submitted applications within a short amount of time and laws that allow utilities the ability to appeal those decisions to the Public Utilities Commission. The proponents and sponsors of this bill point to one example of when a county has delayed transmission line development, *from ten years ago*. This bill would study the exceptions, and instead should study the rule of what the true reasons are for not building transmission lines in Colorado.

SB11-110, County Open Burning Slash Permit Programs (Nicholson, Coran)

CCI Position: Support

SB11-110 directs counties that do not already have slash pile burn permits for private lands to create a permitting system. Slash piles in forested areas are the piles of branches, small limbs and other woody material left over from forest thinning projects. These piles can be dangerous if not burnt or taken off the private lands. Since there are few places in forested counties to bring slash, it makes sense to allow private landowners to burn the slash to dispose of it in a timely manner.

This bill allows counties flexibility for creating a slash permit that works for the landowners. Many counties already have slash pile burning permits in place and those remain under this bill. Other fire

districts and sheriff offices also have permitting in place and the county need only adopt those processes on the county level.

CCI would like to thank Sen. Nicholson and Rep. Coram for reaching out and working with local governments to craft sensible legislation that helps counties continue to address forest health issues.

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

Taxation & Finance (TF)

HB11-1146 Definition of Agriculture Land for Property Taxation (Massey, Steadman)

CCI Position: Support

HB11-1146, a CCI initiated bill, is the outcome of a task force that met last summer and fall to study the assessment and classification of agricultural and residential land. Over the course of the task force's discussions, the group took a narrow focus in trying to address the fact that some homeowners are claiming an agricultural classification on their land without being a part of a bona fide agricultural operation.

Under current law, the land directly underneath a farm or ranch house is classified and valued as agricultural. HB11-1146 requires the following question to be asked: Is the residence integral to the agricultural operation of the farm or ranch? If the answer is 'yes', then there are no changes to the landowner's classification. If the answer is 'no', then a maximum of two acres of the landowner's land is re-classified as residential but the remainder of the land maintains an agricultural classification.

As introduced, HB11-1146 charged the Division of Property Taxation to develop the definition for 'integral to an agricultural operation'. This was part of the task force's recommendation. Over the course of the last few weeks, however, a growing number of stakeholders argued that the definition should be defined by the legislature. To that end, HB 1146 was amended on Monday, February 21 to define 'integral to an agricultural operation' based on whether or not the individual occupying the residence either regularly conducts, supervises, or administers material aspects of the agricultural operation or is the spouse, or a parent, grandparent, sibling or child of the individual.

With this amendment, HB11-1146 passed out of the House Agriculture, Livestock and Natural Resources Committee on an 11 to 2 vote. Thank you, Gunnison County Commissioner Hap Channell, for testifying in support of HB11-1146 and the adopted amendment. While CCI's members pointed out the deficiencies in the amendment defining 'integral to an agricultural operation', CCI recognizes that in the spirit of moving the conversation forward it was important to support the amendment.

HB11-1093 Special Mobile Machinery Ownership Tax (Bradford, Cadman)

CCI Position: Oppose

HB11-1093 makes three changes to the statutes governing special mobile machinery. First it allows farm tractors to be used in non-agricultural activities for 72 hours as opposed to 24 hours before they must be registered as special mobile machinery. Commissioners have expressed concerns that expanding the timeframe that unregistered loaders, articulating trucks, mounted welders and other 'farm equipment' can be used at a construction site, for example, amounts to inequitable treatment of contractors who can complete a job in three days versus those who cannot. Secondly, HB11-1093 reduces the penalty on owners of special mobile machinery that have failed to pay the specific

ownership tax to the lesser of \$500 or double the amount of specific ownership tax. Current statute penalizes owners at the rate of \$500 or double the amount of specific ownership tax, whichever is greater. Statutes also state that penalties are paid to and retained by the municipality or county where the equipment/vehicle should have been registered. Finally, HB11-1093, as amended, eliminates a program referred to as the “2 percent Rental SOT” program. This program, which has been in existence for well over eight years, is meant to mitigate the impacts of mobile machinery that may be owned by a dealer in one county but operated through a lease agreement in another county. Under current law, dealers of special mobile machinery must make monthly payments of 2% of the rental or lease payment to the county where the equipment is being operated. The dealer then has the authority to recoup this payment from the lessee. HB11-1093 eliminates this program which will have a direct fiscal impact on counties, municipalities, special districts, and the state (from the standpoint of the school backfill requirement). In summary, commissioners are opposed to HB11-1093 because of its fiscal implications and their concerns over policy changes that may discourage owners of special mobile machinery from registering their equipment.

Questions or Comments? Contact Gini Pingenot at 720-255-8941, gpingenot@ccionline.org or Bill Clayton at 303.884.7618, bill@lombardclayton.com.

Transportation & Telecommunications (TT)

HB11-1192, Truck Trailer Combinations (Coram)

CCI Position: Monitor

As originally drafted, this legislation would have allowed larger truck trailer combinations on a wide number of additional state highways. After discussions with the Colorado Department of Transportation (CDOT) regarding existing Federal Highway Administration standards and the potential loss of federal transportation dollars if the bill was passed as drafted, the sponsor substituted a strike-below amendment that basically says CDOT shall study additional state highway routes for larger truck trailer combinations **only** if Congress lifts the current freeze imposed by the 1991 Intermodal Surface Transportation Efficiency Act. A number of CCI’s members are supportive of expanding the number of routes these trucks can travel on, pointing to the potential for increased economic development and sales tax revenue from increased truck trailer traffic on state highways. Other counties were somewhat reluctant to back the expansion of routes, citing safety concerns on certain mountain passes. CCI voted to monitor the legislation and will continue to watch the legislation as it moves forward.

HB11-1220, Accelerated Urban Transportation Projects (Beezley, S. Williams)

CCI Position: Monitor

This measure, brought forward by the City and County of Broomfield, would establish a mechanism allowing local governments to recoup their investment in state transportation projects by taking half of the new state sales tax generated by new economic development that would not have occurred but for the transportation improvement in question. To be eligible, these projects must be in an MPO region and already approved for the Statewide Transportation Improvement Program (STIP). The economic development potential of the project improvements must also be approved in advance by the Governor’s Office of Economic Development and International Trade. HB11-1220 has passed out of the House and is awaiting committee assignment in the Senate.

Questions or Comments? Contact Eric Bergman at 303.861.4076 or ebergman@ccionline.org or Tony Lombard at 303.884.9113 or tony@lombardclayton.com.