

# CCI LEGISLATIVE REPORT

COLORADO COUNTIES, INC

MARCH 21, 2011

## Off-Highway Vehicle Use on County Roads

Currently, counties have the ability to allow off-highway vehicles (OHVs) on any (non-highway) road in the unincorporated area. A number of counties have chosen to allow these vehicles on designated county roads. These decisions are not made lightly and often involve hours of public hearings and careful consideration of issues such as noise, public safety and neighborhood compatibility. A bill introduced this session, however, would automatically allow OHVs on **all** roads in the county with a speed limit of 45 mph or less. Counties would reserve the right to prohibit OHV access on paved roads, but access to dirt roads is unrestricted.

The legislation (HB11-1264) is being driven by a perception that out-of-state OHV users are uncertain about which roads they can ride on – especially in close proximity to state and federal parks and other trails and recreation areas. CCI understands the confusion that sometimes arises with regard to what roads these recreational vehicles can and cannot ride on, but feels that opening up **all** roads to these vehicles creates far more problems than it solves.

CCI is hopeful that additional local outreach efforts (better signage, education, etc.) can assist out-of-state tourists and other recreational users of these vehicles. One such example is in Northwest Colorado, where commissioners in Rio Blanco and Moffat counties are partnering with community leaders in Uintah County (Utah) to create a map showing which county roads OHVs can travel on in the three-county region.

HB11-1264 would also set up a process for the titling, licensing, registering and insuring of OHVs in the state by the Department of Revenue (DOR). OHVs are currently registered by State Parks, and CCI believes that the titling and plating of these vehicles by DOR is actually a good idea, and could enhance efforts by law enforcement officials to prosecute illegal riders and better guard against theft.

CCI's Transportation and Telecommunications Steering Committee discussed HB11-1264 at length on Thursday, March 17 and voted to oppose the legislation. The bill is currently awaiting a hearing in House Appropriations.

### General Government (GG)

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#### **HB11-1258, Forensic Autopsies (Baumgardner, Newell)**

#### **CCI Position: Monitor**

HB11-1258 would require county coroners to have a forensic autopsy performed by a forensic pathologist in the event of a suspicious death (including ones that involve suspected alcohol or drug use, unexplained infant or child deaths, police action or suspected drowning). The legislation is supported by the Colorado Coroners Association and the County Sheriffs Association. The bill passed the Senate Judiciary Committee on a 7-2 vote on Wednesday, March 16 and is currently awaiting a second reading on the Senate floor.

## **SB11-186, Alternative Bonding Programs (Morse, Waller)**

### **CCI Position: Support**

SB11-186 is enabling legislation that provides the ability for judicial districts to enact an alternative bonding program that could help fund pretrial service programs. The bill could provide a viable alternative to defendants who do not have access to money or collateral to post bond through existing options. The bill is being supported by the Commission on Criminal and Juvenile Justice and the Sheriffs Association. The CCI General Government Steering Committee voted to support SB11-186 on Thursday, March 17. SB11-186 passed out of the Senate Judiciary Committee on a 6-2 vote on Wednesday, March 9 and is awaiting a hearing in Senate Appropriations.

*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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### **HB11-1145, Concerning the Availability Background Check Child Care (McCann, Tochtrop)**

#### **CCI Position: Monitor**

This is a bill reported on earlier in the session. It had been awaiting action in the House Education Committee, which finally took place on Wednesday, March 2. The sponsor had several amendments that made significant changes to the bill. The bill would have created the right of a parent to see the Colorado Department of Human Services (CDHS) clearance correspondence regarding the operators of a child care facility. The bill also closed a loophole in the requirement for both CBI and FBI fingerprint background checks. Finally the bill would have required CDHS to study the possibility of releasing information concerning background checks to parents.

As amended in the House Education Committee, the bill would now close the fingerprint background check loophole, but would go on to create a registry of background check information relating to employees in child care, which would then be used to weed out applicants for such jobs. The problem inherent in this approach is the cost. As noted in SB11-171, fiscal impact for information systems, built from the ground up, are significant. *The sponsor indicated that the funding would be provided by gifts, grants and donations. She further indicated that a potential financing program was possible.*

However, in action in House Appropriations, Friday, March 18, the bill was amended to provide general funds for the bill, and now includes an appropriation clause. As stated previously, CCI is concerned with the costs and workload that might devolve to the counties, and are particularly concerned that the costs will now come out of the CCAP and related Child Care program funding.

### **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.

A revised fiscal note, dated Monday, March 7, has been prepared for HB11-1196, which removes the original fiscal concerns and demonstrates the negligible costs of this important program. While there was initial concern that TRAILS would require new programming to accommodate the legislation, that element has been revised out of the bill. CCI appreciates the assistance and cooperation of the CDHS in clarifying that HB11-1196 is not a cost-driver for the state and will make flexible program funding possible for counties. CCI urges the Appropriations Committee to adopt this legislation and send it to the floor for second reading.

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## **Land Use & Natural Resources (LUNR)**

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### **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 counties need only to adopt those processes on the county level.

SB11-110 passed out of the Senate and will be heard in the House Local Government Committee on Wednesday, March 23. 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 in their boundaries.

### **HB11-1199, Limiting Local Government Fees on Installation of Solar Energy Panels (B. Gardner, Mitchell)**

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

This bill extends, and expands, an existing cap in statute that limits building permit fees a local government may charge for solar installations. The bill caps fees at \$500 for residential and \$1,000 for

commercial solar installations. The bill extends the sunset date for the fee cap to 2018. Finally, the bill expands the statute to include under the cap plan review fees and any other fee associated with approving a project.

Counties may only charge statutory fee amounts for a wide variety of services they offer to their citizens. Many of these fees do not cover the costs of providing services. HB11-1199 does not take into account the complexities of planning and permitting for these solar arrays. In one county, they waive the building fees associated with solar arrays under 2 MW; yet, the planning fee can still reach \$3,400, depending on a variety of factors. In mountain counties, the topography must be studied to avoid reflections shining in neighboring windows; if the array is on poles removed from the residence additional factors need to be considered; weight requirements, height requirements, and other safety concerns are taken into account. Simply putting a fee cap in statutes does not reduce the actual costs of performing a service for citizens. This bill limits the flexibility local governments have in collecting actual costs for permitting. These are user fees and clearly a matter of local concern.

House Appropriations passed the bill out of committee Friday, March 18.

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

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

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### **HB11-1042, Classification of Residential Land when Residential Improvements are Removed (Levy, Nicholson) CCI Position: Monitor**

HB11-1042 is in response to the recent Fourmile Canyon fires in Boulder County. The bill attempts to preserve the residential classification of property owners who lose their homes because of a natural disaster – like a fire – and intend to rebuild but need time to do so. As amended in the house, the bill states that if a home has been destroyed, demolished or relocated as a result of natural cause, and the property would have otherwise received a residential classification in the next property tax year, the property must maintain its residential classification in the year the home was destroyed, demolished or relocated and two subsequent property tax years. House amendments define ‘natural cause’ as a “fire, explosion, flood, tornado, action of the elements, act of war or terror or similar cause beyond the control of and not caused by the party holding title to the property destroyed”. HB11-1042 is scheduled for a hearing in the Senate Local Government Committee on Tuesday, March 22.

### **HB11-1280, Limit General Fund Appropriation Growth (Beezley, DelGrosso, Brophy) CCI Position: Monitor**

Beginning with the 2011-2012 state fiscal year, HB11-1280 allows the state general fund to grow by 6% from the previous year’s general fund appropriation. In years when this occurs, the bill dictates that the additional revenue, after all required TABOR refunds have been fulfilled, must be used to create a rainy day fund. Once the rainy day fund accrues an amount equal to 8% of the state’s general fund expenditures for that year, any surplus shall be appropriated to the Highway Users Tax Fund (HUTF) and the Capital Construction Fund. Specifically, 2/3 of any surplus must go to the HUTF while 1/3 of any surplus must go to the Capital Construction Fund. A hearing on HB11-1280 has not been scheduled as of this writing.

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

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

HB11-1210 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, should be prepared in consultation with local government and business community input and take into account safety concerns. CCI's members were 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 bill was amended in the Senate Transportation Committee to remove the “hard shoulder” language and was passed to the Senate floor on a 5-2 vote. CCI would like to thank the bill sponsor, Sen. Jeannie Nicholson, for her willingness to address CCI's concerns and amend the legislation. CCI is now supporting HB11-1210.

### **HB11-1220, Accelerated Urban Transportation Projects (Beezley, S. Williams) CCI Position: Monitor**

This measure, brought forward by the City and County of Broomfield, would have established a mechanism to allow 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. The bill was postponed indefinitely at the request of the sponsor during a Senate State Affairs Committee meeting on March 14. In her remarks to the committee, Sen. Suzanne Williams cited widespread misperceptions about the legislation as the reason for her request to kill it.

### **HB11-1275, Engine Idling Standards for Commercial Vehicles (Priola) CCI Position: Oppose**

This bill would establish a statewide idling standard for commercial diesel vehicles. Under the legislation, owners and operators of diesel trucks weighing over 14,000 pounds would be prohibited from idling their trucks for more than five minutes per hour. There are a number of exemptions established, including during severely cold weather or when vehicles are stuck in traffic or are undergoing maintenance. The bill prohibits local governments from enacting idling standards that are more stringent than this statewide standard. While generally supportive of the air quality concerns the bill tries to address, county commissioners had concerns about the loss of local control in dealing with this issue. The CCI Transportation and Telecommunications Steering Committee voted to oppose HB11-1275 at its meeting on Thursday, March 17.

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