

CCI LEGISLATIVE REPORT

COLORADO COUNTIES, INC

APRIL 11, 2011

CCI Meeting Reminder

All steering committee meetings are held at CCI.

Friday, April 15

9:00 – 10 a.m.

Health & Human Services

10:00 – 10:45 a.m.

Agriculture, Wildlife & Rural
Affairs

10:45 – 11:30 a.m.

Land Use & Natural Resources

11:30 – 12:15 p.m.

Public Lands

12:15 – 12:45 p.m.

Lunch

12:45 – 1:45 p.m.

General Government

1:45 – 2:30 p.m.

Tourism, Resorts & Economic
Development

2:30 – 3:15 p.m.

Taxation & Finance

3:15 – 4:00 p.m.

Transportation &
Telecommunications

For access to other *Legislative Reports*
go to: www.ccionline.org.

800 Grant St., Suite 500
Denver, CO 80203
Ph) 303.861.4076
Fax) 303.861.2818
www.ccionline.org

Balanced Budget for SFY 2012

On Tuesday, April 5, legislative leaders announced that they had finally reached a deal to bring forward a balanced budget for Fiscal Year 2011-2012. This was welcome news following a week long stalemate and press reports that the Senate was preparing to introduce its own 2011-2012 budget bill.

As introduced, the SFY 2012 budget closes a shortfall of roughly half a billion dollars. Under the agreement forged last week, legislative leaders reduced the cuts to K-12 education, fully funded the state's 4% reserve and restored a portion of the vendor fee. While there has been substantial news coverage about these budget provisions, little has been mentioned about the budget changes that will impact counties. Here is a summary of some of the budget items that impact counties.

- **SB11-214 Decommission Fort Lyon Prison** – As a part of the budget package, SB11-214 removes references to the Fort Lyon Correctional Facility from state statute. The actual appropriations cut which will close the facility beginning March 1, 2012 is found in the budget bill itself, SB11-209. The closure of Fort Lyon will have regional impacts to the Lower Arkansas Valley. Two hundred four jobs will be lost, primarily in Bent, Otero and Prowers Counties. Undoubtedly, an impact of this magnitude in an area that is already economically depressed, will have lasting ramifications to the schools, families, businesses and livelihood of the region.
- **SB11-213 CHP+ Assess Monthly Enrollment Fee** – SB11-213, another budget balancing bill, establishes a new monthly enrollment fee for families enrolling in the Children's Basic Health Plan with incomes between 205-250 percent of the federal poverty level. The fee will be assessed at \$20 per month for the first child and \$10 per month for each additional child, up to a maximum of \$50 per month per family.

- **SB11-226 General Fund Transfers** –SB11-226, another budget balancing bill, transfers \$30 million in grant funds from the Local Government Mineral Impact Fund and \$41 million in grant funds from the Local Government Severance Tax Fund. These transfers leave the Energy and Mineral Impact Assistance Fund with a zero fund balance and means that the current suspension of the grant program, which went into effect in August 2010, will remain in place for the foreseeable future. In accordance with CCI’s policy statement, CCI staff testified in opposition to these transfers during the Senate Appropriations Committee Hearing on Thursday, April 7.
- **SB11-228 County Tax Base Relief Formula** – SB11-228 is also part of the budget package. Described in more detail on page 3 of this week’s *Legislative Report*, the bill specifies how funds in the County Tax Base Relief (CTBR) Fund are to be distributed when appropriations are insufficient. The CTBR Fund helps those counties with the highest social services costs and the lowest property tax base. Next year’s appropriation provides approximately \$1 million for the CTBR Fund, a reduction of \$1.6 million from the FY 2010-11 level.
- **Department of Human Services Line Items** –
 - Refinancing \$4 million of the Child Welfare Block Grant with funding from the elimination of the Statewide Strategic Use Fund.
 - \$4.7 million in additional County Administration Funding to help counties administer the Supplemental Nutrition Assistance Program (aka Food Stamps)
 - Reduction in the frequency of child welfare caseworker training from every two weeks to every three weeks.

Clearly the reductions in the state’s budget will impact CCI’s members to varying degrees. In light of decreased assessed valuations and retail sales, counties and cities and counties can sympathize with the state’s fiscal predicament. And, even in light of balanced budgets, a structural gap remains in the General Fund that needs to be addressed. Hopefully when this is accomplished, reliance by the state on programs and funding streams that local governments rely on will cease.

This week, the SFY 2012 budget will take front and center as the bill moves through the Senate and then over to the House. CCI will continue to track the budget discussions and will keep our members informed on the latest developments.

General Government (GG)

HB11-1064, Pilot Program for Parole Presumption (Waller, Steadman)

CCI Position: Support

This bill would create a pilot program establishing a presumption in favor of granting parole for inmates serving sentences for drug use or drug possession prior to August 2011. The parole board must provide an annual report to the House Judiciary Committee each year on how the program is performing. The legislation presents a cost savings for local and state incarceration facilities. HB11-1064 had been parked in the House Appropriations Committee since February. The Committee took the bill up on Friday, April 8 and passed it with a favorable recommendation. The bill is now awaiting second reading on the House floor.

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)

SB11-124, Concerning Transfers of TANF Reserves Between Counties (Hodge, Gerou)

CCI Position: Support

This is CCI's bill to revise the process of handling TANF reserves, as well as increasing the flexibility for use of TANF reserves prior to the application of future reserve caps.

The bill was heard in House Finance on Wednesday, April 6 and underwent a detailed hearing. There were three opposition witnesses, each expressing concerns with the general idea of permitting any "reserves" during this economic downturn. When the proponents testified, CCI explained the importance of some small level of reserves among counties to help equal out the variance in reserves among counties. There are a number of counties currently below 10% of reserves, and at least six with zero reserves. This was not foreseen in the process of developing SB08-177, and the revisions provided in SB11-124 will help to smooth out such year-end peaks and valleys.

The House Finance Committee was very attentive and thoughtful and CCI greatly appreciates their final 13 to 0 vote to move SB11-124 to the Committee on Appropriations. The bill is going to Appropriations to confirm the shift in funds from the state's Long Term Reserves back to the counties in the current fiscal year. This is a bit over \$600,000, but will help backfill those counties at zero reserves this year.

House sponsor, Rep. Gerou, Vice Chair of the JBC, has indicated that the bill will most likely be delayed until after the House has dealt with the long budget bill.

Thank you to our outstanding sponsors and all the other legislators who have listened and responded to this need.

SB11-228, Concerning Tax Base Relief Assistance for Counties (Steadman, Gerou)

CCI Position: Pending

This is the Joint Budget Committee (JBC) bill that revises the formula for the County Tax Base Relief Fund, previously known as the County Contingency Fund. This is a fund created over thirty years ago to resolve problems faced by counties whose assessed value is so low that they cannot raise sufficient match money for their TANF grant. The norm at that time involved a mill levy rate of three mills or higher. In the early days of the fund the target figure was this static three mills, which over the years led to virtually half the counties in the state being eligible for the tax base relief. Several years ago the JBC, Colorado Department of Human Services (CDHS) and CCI worked to change the formula to insure that only the poorest counties were eligible for the relief funds. Shortly after that statutory change the economy began to slow, leading to a different view of the fund by the CDHS.

During the current recession, the CDHS requested that this fund be eliminated altogether. Those recommendations were based upon the fact that the state tax relief funds must be general funds in order to match the federal TANF dollars. General funds can often be used to match and enhance programs on a statewide level, with what the CDHS viewed as greater impact. The argument may be valid, but the fact remains that ten or so counties each year need assistance just to achieve sufficient match funds to draw down their allocated TANF grant.

The current bill modifies the formula, looking at more variables than just the assessed value, and utilizes fewer general fund dollars. This year the allocation for Tax Base Relief is going to be just about \$1,000,000, a third of previous amounts, but so much better than a zeroed out program.

CCI is grateful to the Joint Budget Committee and their talented staff for creating this new approach to the poorest counties' inability to meet local match responsibilities.

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

Land Use & Natural Resources (LUNR)

HB11-1286, Clarification of State Engineer Nontributary Rule Authority (Sonnenberg, Schwartz)

CCI Position: Pending

HB11-1286 allows the State Engineer to adopt rules specifying when produced water from an oil or gas well is classified non-tributary. Generally speaking, non-tributary water – as opposed to tributary water – is used to extract oil and gas from wells 3,000 to 4,000 feet deep. Wells this deep typically rely on non-tributary water that has no hydrological connection to a river or stream. Tributary water, on the other hand, flows into and is interconnected with rivers and streams. This bill would allow for non-tributary waters pumped from these deep wells to be used for a beneficial use, rather than having to be treated and re-injected into the ground.

HB11-1286 passed out of the House Agriculture, Livestock and Natural Resources committee and third reading vote in the House unanimously.

HB11-1223, Composition of Colorado Conservation Oil and Gas Commission (COGCC) (Scott, King, S.)

CCI Position: Oppose

This bill would undo parts of HB07-1341, which changed the composition of the Colorado Conservation Oil and Gas Commission (Commission). The House Agriculture, Livestock and Natural Resources Committee, amended the bill to restore the local government member on the Commission, a provision originally struck in the introduced version of the bill. The amendment also added two more representatives from the oil and gas industry, as well as made the two state agencies nonvoting members of the Commission.

CCI continues to oppose the bill. After the brutal discussion surrounding HB07-1341 and the subsequent fights over the creation of the new rules promulgated by the Commission, now is not the time to enter into another political fight over the makeup of this Commission. Adding two more members to the board not only tips the scales in favor of the oil and gas industry, but makes the Commission less manageable and decreases the ability to oversee an important industry in this state. Finally, it is unclear why this is of such importance when the Commission has passed rules with unanimous or near unanimous votes since the inception of the new board.

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

Taxation & Finance (TF)

HB11-1255, Colorado Alternative Energy Park Act (DelGrosso, Schwartz)

CCI Position: Monitor on the CCI requested amendments but position ‘pending’ on the amendments not requested by CCI.

HB11-1255 allows counties and cities to create Alternative Energy Business Parks within their communities. As amended in the House Finance Committee, an area can qualify as an Alternative Energy Park if it contains one or more existing or planned ‘alternative energy facilities’ with an aggregate construction or replacement cost of not less than \$2.5 million. An alternative energy facility is defined as a facility that is primarily used to produce 1.) alternative energy; 2.) components, machinery or equipment for use in the production of clean energy or 3.) energy efficiency improvements.

CCI’s members discussed HB11-1255 at their March 17 Taxation and Finance Steering Committee Meeting. At that meeting, members asked staff to work with the proponents to secure five amendments. Those amendments:

- 1.) Allow all public bodies the right to ‘opt-in’ to a proposed alternative energy business park at the application stage. Public bodies, which includes counties, can choose how much they wish to financially contribute, via a tax increment financing approach, to a business park and how long they wish to make such a contribution;
- 2.) Include school districts in the definition of ‘public bodies’ so that they too have the option of opting-in to the alternative energy business park application and financing plan;
- 3.) Limit the school district’s increment to that portion that is not subject to state backfill;
- 4.) Allow local governments that choose to opt-in to appoint whomever they want to the governing board of the business park; and
- 5.) Specify that the expansion of the state sales tax exemption on machinery and machine tools does not implicate a county or city’s sales tax base.

At the Wednesday, April 6 House Finance Committee hearing, these five amendments were adopted and incorporated into the amended version of HB11-1255. CCI’s requested amendments, however, were a part of a much larger amendment which included provisions that our members have not had an opportunity to discuss. Because of that, staff explained that CCI had not taken a position on the amendment in its entirety but that our position on the five items listed above was now ‘monitor’. CCI’s members will be asked, on Friday, April 15, for their position on the other amendments that were incorporated into HB11-1255 including:

- 1.) Defining ‘alternative energy’ to include natural gas;
- 2.) Authorizing the Economic Development Commission to charge application fees;
- 3.) Requiring local governments to seek authorization for service fees that maybe charged by financing entities in connection with the contribution tax credit; and
- 4.) Requiring financing entities – which may be a county – to pre-certify certain alternative energy park income tax credits.
- 5.) Clarifying that buildings within the park cannot be used for retail or residential use;
- 6.) Allowing the Office of Economic Development to seek gifts, grants and donations to help cover application costs if the [collected] fee is insufficient;
- 7.) Stating that if agricultural lands are included in a park, they should be valued at their fair market value as opposed to their agricultural value; and

8.) Ensuring that the reporting and tracking requirements that apply to the income tax credits utilized by Enterprise Zones apply to an Alternative Energy Park as well.

Committee members and the sponsor also discussed potentially sunseting HB11-1255. While no amendment was offered in that regard, staff anticipates a floor amendment will be offered along those lines.

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

Transportation & Telecommunications (TT)

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 one for periods where idling is required because the driver is heating or cooling a sleeper berth compartment during a rest or sleep period. The bill also sets up minimum distance standards – basically establishing how far away from residential housing, schools, daycare facilities and hospitals these idling diesel vehicles must be to not be in violation. The bill prohibits local governments from enacting idling standards that are more stringent than these statewide standards.

While generally supportive of the air quality concerns the bill tries to address, county commissioners have concerns about the loss of local control in dealing with this issue – especially with regard to the exemptions and distance thresholds. In certain areas of the state that are subject to temperature inversion (a phenomena where air settles, trapping pollutants), these statewide standards may not accomplish the stated air quality goals of the bill. In these instances, local control is essential to ensuring adequate standards that meet the needs of at-risk residents. The bill was passed out of House Appropriations on Friday, April 8 and is now awaiting a hearing on second reading.

SB11-227, Child Car Seat Restraint Systems (Hudak, Vaad)

CCI Position: Pending

This bill would bring state statutes regarding child car seat restraints into compliance with national safety standards. By meeting the national standard, the state will be able to receive \$605,000 in federal safety funds that it would otherwise lose out on. These funds will be granted to RETACs, Colorado State Patrol and other groups to conduct safety training classes in rural areas. The CCI Transportation and Telecommunications Steering Committee will be considering SB11-227 at its meeting on Friday, April 15.

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.