

# Legislative Report

## CCI Meeting Reminder

All steering committee meetings are held at CCI.

### Friday, January 23

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

### Friday, February 13

9:00 – 10:30 a.m.

Tourism, Resorts & Economic  
Development

10:30 – 12:00 p.m.

General Government

12:30 – 2:00 p.m.

Taxation & Finance

2:00 – 3:30 p.m.

Transportation &  
Telecommunications

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## ***On Your Mark...Get set...GO!***

On Wednesday, January 7<sup>th</sup>, Colorado's General Assembly convened for the start of their 120-day legislative session. New and returning legislators filled the capitol ready to shape policy decisions and tackle the projected \$1 billion shortfall that will overshadow the next 18 months.

In the last week, legislators introduced over 250 bills. From proposed changes to the business personal property tax to modifications on how elections are conducted, many of these bills have potential policy and fiscal implications to counties. And, just like the state, local governments are feeling the pinch of the current economic downturn. Declining assessed valuations, lower sales tax receipts and drop-offs in other revenue streams translates to cuts in expenditures at the local level.

There is hope, however, in adversity. Most policymakers are convinced that this is the year to fix the statewide transportation system. The facts support the "quiet crisis" that threatens one of our most important investments. State and local roads are in desperate need of repair while the number of structurally deficient bridges is at an alarming all time high.

There is agreement that there is a problem and that it's time for a solution. Disagreement lies in how to fix the problem. Legislative opinions range from cutting other areas of the budget to raising existing fees and implementing new ones. CCI's Transportation and Telecommunications Steering Committee voted overwhelmingly on Friday, January 16<sup>th</sup> to support FASTER and HB09-1154.

From a policy perspective, FASTER (Gibbs, Rice) makes great strides in restoring the state and local

government partnership. Since 1991, local governments have been shut-out from receiving a share of transportation funding. FASTER allocates roughly \$160 million, on an annual basis, to the state, counties and cities. This new revenue will be generated through weight based registration fees, a new rental car fee, increased fees for oversize and overweight vehicles as well as increased fines for late vehicle registrations and failure to register.

FASTER will also create a new weight based bridge surcharge. This surcharge is projected to generate \$100 million and will help fix the state's 126 structurally deficient bridges. Additionally, the bill creates a new division within the Colorado Department of Transportation (CDOT) to be known as the High Performance Transportation Enterprise. The Transportation Enterprise will be charged with exploring innovative financing approaches, such as public/private partnerships, to fund multimodal corridor projects. This could include tolling existing lanes, if impacted local governments grant approval. Finally, FASTER authorizes a statewide VMT (vehicle miles traveled) pilot project and creates a new commission to evaluate financial and operational efficiencies within CDOT on an ongoing basis. FASTER will be introduced late this week.

HB09-1154 *Eliminate Reductions In SB 97-1 Transfers To HUTF* (Sonnenberg, Renfroe) reflects a major policy shift as it relates to funding transportation. Rather than waiting to fund strategic transportation projects (also known as "7<sup>th</sup> Pot Projects") with whatever remains in budget surplus years, HB09-1154 builds transportation funding directly into the state's budget by diverting roughly 10% of the state's sales tax revenue to CDOT. This transfer generally represents the amount of taxes paid on the sale and use of vehicles and related items, such as tires and auto parts.

Other proposals will be introduced over the course of the legislative session. At least some will have serious consequences for counties and cities. The following is an excerpt from a January 16<sup>th</sup> *Rocky Mountain News* editorial entitled *The Road to Repairs*:

'That's where the Republican plan, explained to us by Senate Minority Leader Josh Penry, R-Grand Junction, comes in. It would also rely on COPs [Certificates of Participation], which would finance repairs on nearly all of the 126 structurally deficient bridges in the state. The COPs would be repaid by immediately diverting a portion of severance tax revenues the state already collects. The Department of Natural Resources and the Department of Local Affairs would take the hit, but these agencies have scored significant windfalls in recent years as energy production surged.'

Just like state legislators, local elected officials are ready for a transportation solution. It will not be easy and will require state elected officials to work together. Whatever the solution, it needs to include a local share.

CCI will be at the forefront on this and other issues, however, legislators want to hear directly from county commissioners. There is no other level of government that is closer to constituents than local government, therefore, stay in touch with your state legislators to let them know your views on issues of importance to your communities.

## General Government (GG)

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### **SB09-006, County Jail ID Unit (Boyd, Solano)**

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

This bill derives from a legislative interim committee working on problems with mentally ill people in the criminal justice system. It creates a mobile identification unit that would travel to seven Denver metro area counties to process IDs for jail inmates. The importance of this bill is to get seriously mentally ill inmates in county jails with identification so that they will have documentation for benefits when they are released. With better access to benefits the inmates will be able to receive their medications quickly, decreasing their chances of recidivism.

There is a hefty fiscal note on this bill and CCI and the interim committee members are currently working with sponsors and the legislature to find ways of funding this important program.

Status: The bill was introduced and assigned to the House Local Government committee.

### **HB09-1022, Recidivism Reduction Grant Program (Boyd, Solano)**

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

This bill also derives from a legislative interim committee working on problems with mentally ill people in the criminal justice system. The idea behind this bill is to provide grants to counties that have already developed collaborations to reduce recidivism. The number of mentally ill in county jails has increased and continues to significantly fiscally impact the jails. In 2008 alone the seven Denver metro area counties spent more than \$32 million treating and housing a jail population of 20% seriously mentally ill inmates. This bill would allow counties to utilize grant funding to implement programs, which they have been unable to afford to this point.

This bill was heard in the House Judicial committee on Thursday and passed 10-2. It will be sent to Appropriations where the \$600,000 fiscal note will make it difficult for committee members to move it to the House floor for debate. Despite the state's fiscal situation, CCI will continue lobby for this funding as it would equate to a significant amount of state savings in both the short and long term.

Status: The bill is in House Appropriations.

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

## Health & Human Services (HHS)

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### **HB09-1064, Concerning Creating a Legislative Committee to Study Poverty Issues (Kefalas)**

**CCI Position: Pending**

HB 1064 would revive previous oversight committees concerned with welfare systems and poverty. Similar to the Welfare Reform Oversight Committee that the legislature authorized ten years ago after the federal welfare reform, this task force would be examining a number of issues including how well we are resolving the problems of poverty and the welfare system. The bill creates the economic opportunity poverty reduction task force, consisting of members from the general assembly.

The duties of the task force include assessing current policies and practices in Colorado that promote economic opportunity, and poverty reduction and developing and implementing a strategic, integrated and comprehensive plan to reduce the number of Coloradans living in poverty.

The new task force would be authorized to make recommendations to the general assembly and propose legislation that advances economic opportunity while reducing poverty, especially child and family poverty. The sponsor, Rep. Kefalas, envisions a process that would include input from a wide variety of groups, advocates, the counties and the state.

### **SB09-11, Concerning the Creation of the Behavioral Health Commission for the Purpose of Guiding the Development of an Integrated Behavioral Health System in Colorado (Boyd, Frangas)**

**CCI Position: Pending**

The legislature's Health Care Task Force has recommended that this bill come forward from their interim work on behavioral health issues. The bill establishes a new behavioral health commission within the department of human services for the purpose of guiding the development and implementation of an integrated behavioral health system in Colorado. Interestingly, the bill creates this commission as a Type 1 transfer, meaning that the commission would have rule-making authority similar to other Boards and Commissions like the State Board of Human Services or the Medical Services Board.

The bill creates a very detailed requirement for members and representation, in order to properly reflect the behavioral health community and the citizenry in Colorado. Among the groups included in the bill for membership on the Commission are representatives from several state Departments and a county commissioner.

Among other responsibilities, the bill requires the commission to perform duties in order to implement a behavioral health system. This will be a major undertaking and one that may ameliorate problems of the "silo" effect in delivering services to Coloradoans with these problems.

As introduced, the bill contains a repeal date of July 1, 2019.

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

## Land Use & Natural Resources (LUNR)

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### **HB09-1401, Concerning a Codification of the Pending Ordinance Doctrine (Hullinghorst, Gibbs)**

**CCI Position: Support**

HB 1106 is a Colorado Counties, Inc. bill, coming from problems experienced by high-growth counties over the past decade. The problem stems from the lack of a mechanism to permit public discussion and consideration of new rules and regulations when needed by the county and communities therein. As soon as notice of a review is published there can be a "rush to the courthouse" to file a development application in order to "beat the clock" and avoid any new regulations. In the past, counties had some ability to hold applications while consideration of new regulations occurred. That ability was lost some years ago during a series of growth reforms. Short of filing a county-wide moratorium, counties lack the appropriate tools to work through new rules and regulations without these problems.

The bill itself specifies that an application for a development permit or other request for a land use approval by a county or municipality shall be subject to any pending law, rule, resolution, ordinance or other regulation of the local government at the time the application or request is submitted, provided that:

- The pending regulation is adopted on or before the date a decision on the application or request is rendered by the local government and
- The local government has not unreasonably or arbitrarily delayed or declined to make a decision on the application or request.

It also authorizes a local government to adopt a new or amended regulation when necessary for the immediate preservation of the public health and safety, and to enforce a pending regulation in relation to an application or request that is pending at the time of the adoption of the regulation.

Counties have no authority to adopt emergency rules or some other time-stopping action, so we are left with the ax instead of a scalpel. This legislation is an attempt to develop a more finely-tuned instrument to protect community interests and the environment.

### **SB09-04, Concerning a Moratorium on the Implementation of Rules Promulgated by the Colorado Oil and Gas Conservation Commission (Brophy, Bradford)**

**CCI Position: Pending**

As you may know, the Colorado Oil & Gas Conservation Commission has labored for the past year to adopt new rules for modernizing the review of permits while protecting the state's environment. Pursuant to statute, the rules must now be adopted by the general assembly. This legislation would have the effect of delaying any implementation of the rules until July 2010. Specifically the bill provides that rules of the Colorado Oil and Gas Conservation Commission (COGCC) concerning permit review, public health and safety, and wildlife, shall not take effect prior to July 1, 2010. CCI has not had the opportunity to discuss this legislation, although we do recognize that members will have great interest in the final implementation of the COGCC's rules.

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

## Public Lands (PL)

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### **SB09-001, Community Wildfire Protection Plans (Gibbs, Scanlan)**

**CCI Position: Pending**

This bill came out of the interim committee on wildfire and wild land-urban interfaces issues. The bill would mandate that all counties create a Community Wildfire Protection Plan (CWPP) within two years. The Colorado State Forester would publish guidelines for the plans, while counties with existing plans would not need to reinvent new ones. Unfortunately, there are only five counties with county wide CWPPs, leaving 59 others with a mandate to either develop new plans or revise existing plans to conform to new guidelines.

CCI recognizes the importance of CWPPs, however, this bill is an unfunded mandate on the counties. It is still unclear why all counties, including those with no wild land urban interface, must develop CWPPs. An amendment was included in committee, to add language that would allow for "other equivalent plans" to be used in lieu of CWPPs. CCI will continue to work with senate sponsors to insure that this unfunded mandate will not burden counties during these difficult economic times.

While there is a fiscal impact on local governments, there is no fiscal impact to the state. Since this is the case, the bill did not go to the Appropriations Committee; instead it went straight to the floor of the Senate.

Status: The Senate Local Government committee voted to send this bill to the Senate.

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

## Taxation & Finance (TF)

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### **HB09-1070, Lands Prohibited From Urban Renewal Authorities (Fischer)**

**CCI Position: Support**

Reform of Tax Increment Financing (TIF) has been a county priority issue for many years as the result of the one-sided nature of current urban renewal statutes. HB09-1070 prohibits agricultural or vacant lands, with some exceptions, from being included in an urban renewal area and thus having TIF utilized to subsidize the development of these lands. The bill also allows local government entities, which are reliant on property tax in order to provide public services, a seat at the table when it comes to receiving impact report information and inclusion in the existing statutory process for arbitration.

### **SB09-042, Administration of Property Tax Exemptions (Tapia)**

**CCI Position: Support with Amendments**

Under current law the Division of Property Taxation (DPT) receives applications for property tax exemption from owners based on statutory criteria for the use and ownership of the property. Exemptions may be granted to taxpayers if they meet the criteria, as determined by the Property Tax Administrator, based on their religious and or charitable purposes. Property taxes cannot be collected and should not be payable by the property owner while the application is pending and if final determination is made in the taxpayer's favor. SB09-042 moderately expands the ownership test by allowing "hybridized" nonprofit entities to qualify for exempt

status so long as the property is dedicated to charitable, religious or school purposes not resulting in private gain or is eligible for federal New Market Tax Credits. In addition, the bill expands the county offices which will receive listings of pending applications to the Assessor, Treasurer and Commissioners' offices. Finally, the bill authorizes the State Board of Equalization to grant an exemption where a public official error prevented the exemption from being granted.

CCI will be working with the Department of Local Affairs (DoLA) and DPT staff to offer clarifying amendments ensuring that counties will not be responsible for state officials' errors in processing as well as limiting the time for retroactive exemptions to a specific and reasonable period.

*Questions or Comments? Contact Chris Mendez at 720.352.7326 or [cmendez@ccionline.org](mailto:cmendez@ccionline.org).*

### **Tourism, Resorts & Economic Development (TRED)**

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#### **HB 1138, Property Interests and Limitations on Rent Control (Curry, Schwartz)**

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

HB 1138 clarifies that the prohibition on local rent control ordinances or resolutions applies to private, residential housing units. It also specifically authorizes local governments to enter into and enforce contracts, including existing contracts, which control rent on private residential housing units. Finally, it establishes a property interest in covenants, deed restrictions or similar instruments that control rents, that are executed by the owner and recorded and that provide for enforcement by public entities. HB 1138 has been assigned to the House Local Government Committee but not yet calendared for hearing.

#### **SB 41, Private Activity Bond Ceiling Allocation (Romer, Vigil)**

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

SB 41 authorizes the Department of Local Affairs to charge an administrative fee to entities that receive direct allocations of bonding authority as part of the Private Activity Bond (PAB) Ceiling Allocation Act. The Department of Local Affairs has historically charged an administrative fee to entities that received bonding authority from the PAB Program to cover administrative costs. Earlier this year, it was brought to the department's attention that current law does not allow the program to impose a fee on local government participants. Since that time, fees on local governments have not been collected. This bill reinstates the department's authority to charge a fee to all program users. SB 41 also allows the Department to contract with a private person, corporation or entity for the administration of the PAB program and makes changes to certain deadlines for program allocation and reporting requirements. SB 41 was assigned to the Senate Finance Committee but has not yet been calendared.

*Questions or Comments? Contact Chip Taylor at 303-883-9380 or [jtaylor@ccionline.org](mailto:jtaylor@ccionline.org).*

## Transportation & Telecommunications (TT)

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### **HB09-1034, Allow Regional Transportation Authority to Levy Property Taxes (Liston, Gibbs)**

**CCI Position: Support**

HB 1034 expands the revenue tools for regional transportation authorities (RTAs) to include up to a five mill levy on property within the authority. RTAs currently do not have this power, which could greatly enhance the provision of services for RTAs statewide, particularly in jurisdictions with lower sales tax bases. CCI has supported such a concept historically and supports HB09-1034 in order to allow local voters to make the decision of supporting regional transportation and transit, should they see fit. HB 1034 extends this authority for 10 years beginning 2009.

### **SB09-078, Allowing an Exemption from Utility Notification for Routine Road Maintenance (Newell, Rice)**

**CCI Position: Support**

As a CCI priority issue for a number of years, SB 78 creates a very narrow exemption from current utility notification statutes. Specifically, the exemption would apply to routine road maintenance, only to dirt roads, and specific to blading or scraping washboards out of the surface of the road, where this is done at least once per year and won't change the surface of the road itself. The exemption specifically excludes any activity that could be considered "excavation." The bill also includes language requiring immediate utility location upon discovery while ceasing activities in the immediate area.

Such an exemption exists in many other states and the benefit is to the one-call system as a whole: The fewer calls and utility locates for such routine road maintenance that occur will mean more resources and locators that can be dedicated to true excavation activities. Despite meeting with some interest groups and crafting language to satisfy past safety concerns, SB 78 has again been met with resistance from certain industries.

*Questions or Comments? Contact Chris Mendez at 720.352.7326 or [cmendez@ccionline.org](mailto:cmendez@ccionline.org).*



## **ANNOUNCEMENTS**

### ***Budget Watch***

Last week, the Governor unveiled his proposal to balance the state's current budget (SFY '08-09). With projections indicating a \$631.9 million deficit for this year alone, no departments were spared and many of the state's cash funds were targeted. This includes a \$15 million transfer from the Local Government Energy and Mineral Impact Fund to the General Fund. This fund supports energy impacted communities and provides grants for the construction of local roads, public facilities, and water and sewer infrastructure. Colorado's Department of Human Services and Department of Health Care Policy and Finance also took hits to the tune of \$38 and \$84 million, respectively. CCI staff is in the process of determining how these, and other proposed cuts, will impact counties.

On Friday, January 23<sup>rd</sup>, the Governor will reveal his proposal to address next year's short fall of \$385.5 million. It's anticipated that these cuts will be even more painful. If you're interested in the nitty gritty details, check out the Governor's Office of State Planning and Budgeting website at <http://www.colorado.gov/governor/ospb>.

### ***Mark Your Calendars!***

The National Association of Counties' (NACo) Legislative Conference is fast approaching. This year, more than ever, counties need to be engaged in the conversations occurring in Washington, D.C. So, block-out Friday, March 6<sup>th</sup> – Wednesday, March 11<sup>th</sup>, and plan to attend NACo's Legislative Conference. This is your opportunity to influence NACo's policies and lobbying agenda and to meet with Colorado's congressional delegation.

If you plan to attend and have not notified Gini Pingnot ([gpingenot@ccionline.org](mailto:gpingenot@ccionline.org) or 303.861.4076 ext. 226) please do so.