

Legislative Report

CCI Meeting Reminder

All steering committee meetings are held at CCI.

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

Friday, February 20

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

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TIF: A Primer on Tax Increment Financing (TIF)

For new and returning elected officials, it is sometimes easy to get lost in all the acronyms and lingo that characterize Colorado's public policy arena. With that in mind, this week's lead article focuses on one such acronym: TIF or tax increment financing.

The following primer will answer some very basic questions about TIF and explain why this financing tool is a concern to counties.

What is TIF?

Tax increment financing (TIF) is a method of subsidizing private development projects that was originally intended to help redevelop areas that are deemed "blighted" or "distressed." TIF allows municipal governments to allocate the tax revenues of all local governments, including counties, schools and special districts, to subsidize projects without raising their own taxes, providing tax abatements or spending municipal sales tax revenue.

How does it work?

In general, cities create TIFs by first designating a district for redevelopment. Since the area in the district is slated for redevelopment, property values will likely increase when the redevelopment occurs and therefore property tax revenues will go up, based on higher assessments. When this increase occurs, the property tax revenue from the TIF district is split into two streams. The first stream results from the original property values before the redevelopment. This amount of tax continues to go to the city, county, school district and other taxing entities as before. The second stream consists of the increase in taxes resulting from the new development and higher property values. This is referred to as the "tax increment." Money from this stream is paid into a special fund used to subsidize the redevelopment in the district. This diversion of tax payments continues until the TIF district financing expires.

In Colorado, cities can employ TIF through urban renewal authorities (C.R.S § 31-25-101 et seq.) and downtown development authorities (C.R.S § 31-25-801 et seq.) Prior to implementing a TIF plan, a municipality must designate an area as “blighted”. A blighted area is an area that “substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare.” Areas can satisfy this definition if at least four of eleven factors are present. These factors include a predominance of defective inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, unusual topography or inadequate public improvements or utilities and/or environmental contamination of buildings or property. Following a public hearing process, if a municipality finds that blight exists a certificate outlining the municipality’s findings and declaration of an urban renewal authority is filed with the Department of Local Affairs.

How are local governments and the state impacted by TIF?

As mentioned above, urban renewal authorities use TIF by tapping into taxes levied by “any public body” on properties residing within the authority. Public bodies include counties, municipalities and/or other political subdivisions. Property tax receipts from these taxing entities can be collected for up to 25 years (up to 50 years in a DDA) and must be deposited into a special fund to meet bond obligations. Municipal sales tax revenues generated within the authority may, but are not required to, be used for TIF.

There is a state fiscal impact as well. While counties and special districts simply forgo much of their property tax revenue when TIFs are in place, school districts are “backfilled” by the state. In accordance with the School Finance Act, the state must reimburse every dollar diverted from the general schooling by TIF plans. School districts suffer the loss of revenue in their bond levies and any mill levy “overrides.”

Why do counties care about TIF?

Currently, state statute gives cities and towns through URAs or DDAs the unilateral ability to use the property tax revenue of counties and other taxing entities to provide economic incentives to developers while at the same time protecting a city/towns’ ability to profit to the full extent from increased sales tax resulting from the development.

From a county perspective, seizing the total property tax increment in a targeted area, as is the case in TIF projects, jeopardizes the county’s ability to deliver critical, county-designated services to all residents, including city or town-affiliated households. This unilateral ability of municipalities to “flat line” the property tax collections of other local taxing entities, has long term implications for the ability of counties and other taxing entities to provide services to an ever-growing population.

CCI has, and will continue to voice county concerns on TIF. One of our legislative priorities for this year is to address the inequities of TIF while leaving this important economic development tool available to municipalities. As written in CCI’s policy statement:

CCI supports giving boards of county commissioners the authority: (1) to approve the use of the county portion of revenues designated in a proposed urban renewal plan for tax increment financing; and (2) to establish mechanisms to ensure that a proposed urban renewal project meets the current statutory requirement of ameliorating blight or slum conditions.

Agriculture, Wildlife & Rural Affairs (AWRA)

SB09-024, Wildlife Division Response to Game Damage (White, Sonnenberg)

CCI Position: Monitor

Northwestern Colorado faced a brutal winter last year and game damage was extensive in some areas. Some ranchers felt the Division of Wildlife (DOW) did not respond in a timely manner to the damage claims. This bill would require the DOW to contact a landowner who has submitted a complaint related to game damage within 48 hours. The bill establishes other timelines for DOW to follow when dealing with game damage claims.

The bill also increases the maximum amount of a fee that a person may charge for big game hunting access on the person's property. Currently, if an owner charges \$100 or more they are unable to submit game damage claims to the DOW. This bill proposes raising the limit owners can charge, up to \$2,500. Finally, if there is 'excessive damage', defined as an income loss greater than 25% resulting from game damage, permits may be allowed for taking wildlife on private property.

Status: Laid over in Senate Agriculture and Natural Resources Committee.

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

General Government (GG)

HB09-1135, Adjust County Fees (Judd, White)

CCI Position: Support

This is a CCI legislative priority. Currently, in order to raise a fee, counties must introduce legislation, which is time consuming and expensive for all involved. This bill would allow county fees in Title 30, C.R.S., to be indexed to the Denver/Boulder/Greely CPI. Every other year Title 30 fees would be indexed to the CPI. Fee amounts would be rounded up to the nearest \$.50 mark to allow for consistency and ease, but fees would not go above that \$.50 mark until the indexed fee surpassed the mark.

The Department of Local Affairs would publish the fee schedule with the fee increases, if any, on their website every other year. In many years, there may be no fee increase since the indexed fee amount may rise above the \$.50 mark, bumping it to the next \$.50 interval.

This bill allows the General Assembly to concentrate on substantive policy bills instead of having to debate and pass multiple fee bills each year.

Status: Introduced and assigned to House Local Government.

SB09-050, Limited Gaming Member from Gilpin or Teller County (Scheffel, Murray)

CCI Position: Support

This bill requires that at least one member of the five member limited gaming control commission reside in Gilpin or Teller county. While commissioners recognize the unique nature of this industry, commissioners strongly believe that the oversight committee is strengthened with local representation. Furthermore, other boards in Colorado, such as the CU Board of

Regents and the Colorado Oil and Gas Commission, depend on local representation to help make good policy affecting industry.

Status: Heard in Senate Local Government and laid over for further work on amendments.

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

Health & Human Services (HHS)

HB09-1028, Colorado Indigent Care Accountability Board (Frangas)

CCI Position: Pending

The Health Care Task Force, meeting in the interim, discussed the problems and difficulties of advocating for the medically indigent. One of their concerns was the knowledge that many of these patients are reluctant to report problems or make complaints about their care, for fear of losing services or suffering retribution. This bill, as recommended by the Health Care Task Force, seeks to resolve this problem through the creation of the Colorado Indigent Care Program (CICP) Accountability Board within the Department of Health Care Policy and Financing. The CICP Board is established to review grievances submitted by medically indigent clients who have received care through CICP. The executive director of the department is to appoint at least 4 members to the CICP Board, which must meet at least quarterly.

The Medical Services Board must adopt rules for the CICP Board including the process for reviewing grievances. The bill outlines several remedies that the CICP Board may recommend to the department should a grievance have merit, including the following:

- a mandatory second opinion;
- the transfer of a medically indigent client to a different medical provider;
- the treatment of a medically indigent client by a private medical provider; or
- the use of mediation with the medical provider and the medically indigent client.

If the department does not follow the recommendation of the CICP Board, the department must inform the client of its reasons. The CICP Board must file a quarterly report with the department. Finally, a sunset review of the CICP Board is required prior to its repeal in 2016. There is merit in this new board and potentially benefits to both the patients and the program itself.

HB09-1075, Department of Human Services Criminal Prohibitions to Employment (Middleton)

CCI Position: Support

Under current law, new Colorado Department of Human Services (CDHS) employees and contractors who have direct contact with vulnerable people are required to pass criminal background checks. The bill expands this requirement to all new employees and contractors of the department. It also eliminates the requirement that the department contact previous employers of the top 3 candidates for positions that have direct contact with vulnerable people.

An applicant will be disqualified from a state CDHS position if they have been convicted of several types of offenses in the last ten years including:

- felony drug offenses;
- misdemeanor offense of unlawful sexual contact; and
- all class 2, 3, 4 and 5 felonies.

The bill requires all department employees to inform their supervisors within 48 hours of any arrest, charge or summons for disqualifying offenses. As we read the bill, it only applies to employees of the state department at this time.

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

Land Use & Natural Resources (LUNR)

HB09-1067, Instream Flow Tax Incentives (Pommer, White)

CCI Position: Pending

For income tax years commencing on or after January 1, 2009, but prior to January 1, 2015, HB 1067 would create an instream flow incentive tax credit. This bill is similar to a bill introduced last year that sought to increase the instream flow donations to the Colorado Water Conservation Board (CWCB). This bill specifies that the CWCB will allocate the credits by issuing credit certificates to owners of water rights who donate those water rights to the board for use as instream flow rights. The bill details the value of credits and water rights, including a specific appraisal process. The bill also limits the total annual credits to a capped amount. The bill allows the credit to be carried forward to other income tax years for a maximum of 6 years. It will establish the transferability of the credit. The bill specifies that revenues to the state must be sufficient before the credits would be implemented. That is the major issue of the legislation at this time, due to the major budget reductions being undertaken by the state and the rather bleak forecast for state fiscal year 09-10. The sponsors are both members of the Joint Budget Committee, and are thus fully aware of the potential fiscal difficulties of tax credits.

HB09-1091, Carbon Monoxide Alarms in Residential Properties (Soper, Romer)

CCI Position: Support

As most of us know, there have been several tragic deaths in the past few months, attributed to carbon monoxide (CO) poisonings. The legislature announced even before the start of the session their intent to require CO monitoring for certain residential properties. This bill implements those intentions, in highly specific language. It appears that the requirements will need to be implemented locally by county and municipal building departments. As introduced, the bill requires any existing single-family dwelling or dwelling unit of an existing multi-family dwelling offered for sale or transfer on or after July 1, 2009, that has a fuel-burning heater or appliance, a fireplace or an attached garage to have an operational carbon monoxide alarm installed within a specified distance of each room used for sleeping purposes. The bill also applies to all new residential construction after July 1, 2009.

Just as current laws require periodic maintenance and battery replacement for smoke detectors in rental units, this bill requires the same obligations for CO monitors. Local governments are granted the authority to set more stringent requirements if they want to or if they have already established CO monitor requirements. Finally, provided the installation of a CO monitor is according to manufacturer's specifications there is no liability attached if a monitor fails.

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

Public Lands (PL)

SB09-0001, The Establishment of Community Protection Wildfire Plans by County Governments (Gibbs/Penry, Scanlan/King S.)

CCI Position: Oppose

This bill came out of the Interim Committee on Wildfire Issues in Wildland-Urban Interface Areas. This bill is an unnecessary unfunded mandate on the counties. For more than ten years mountain counties have planned, coordinated and collaborated with stakeholders to address forest health issues. Currently counties have existing plans in place that already correspond to the requirements of Community Wildfire Protection Plans (CWPPs). There is language in the bill that allows these plans to be grandfathered into the mandate; however, the bill still mandates counties, many with no forests, to devise a CWPP regardless.

Additionally, the bill calls for counties to annually update their plans based on not yet developed criteria coming from the Colorado State Forester. Counties recognize the need to assess and plan for wildfires in their counties, but they do not support a mandate to spend resources on modifying existing plans and developing plans for counties with minimal wildfire danger.

CCI will continue to work with the sponsors of this bill to ensure that another unfunded mandate is not passed on to the counties during these difficult times.

Status: Passed second reading in the Senate

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

Taxation & Finance (TF)

HB09-1051, Federal Mineral Lease Money for Local Road Construction (Baumgardner)

CCI Position: Oppose

HB 1051 would require that the current distribution of Federal Mineral Lease (FML) revenues for the Department of Local Affairs (DoLA) grant program be used to pay for road and bridge construction. The projects would be identified and prioritized by DoLA and CDOT in consultation the Energy Impact Assistance Advisory Committee and affected counties and municipalities. While the bill has the goal of returning FML revenue to construction projects in impacted communities, CCI believes that restricting the funds for such purposes defeats the inherent flexibility of the DoLA grant purpose and process. Local governments already have the ability to effectively utilize targeted grants for transportation purposes and restricting some of the only flexible, exempt funds available to address the impacts of mineral extraction is not the right approach. CCI will work with stakeholders to seek a solution that benefits local governments and retains flexibility.

HB09-1068, Business Personal Property Tax Exemption (Lambert, Scheffel)

CCI Position: Oppose

Counties in Colorado are largely creatures of property tax. Counties rely on both real and personal property tax to support the public services, many of which are mandated by the federal or state governments. Business personal property tax (BPPT), can constitute anywhere from 2.15 to as much as 47.38% of a county's total revenue base.

HB 1068 aims to reduce the BPPT companies pay by way of an exemption to the BPPT. The bill states that in years when there is a budget surplus, the general assembly must transfer an amount equal to .07% of the prior year's general fund appropriations to the Business Personal Property Tax Reimbursement Fund. Then, in order to determine how much business personal property a company can claim as exempted from the tax, the bill establishes a complex formula based on the ratio of a company's in-state versus out-of-state sales. If the amount of state funding is insufficient to backfill the claimed BPPT exemptions, the state treasurer will prorate the available funding among counties. The bill, as written, also has a punitive measure for counties who do not certify, on a timely basis, the amount of loss revenue witnessed by local governments. Counties who find themselves in this position will not receive any backfill but still must distribute reimbursements to special districts and municipalities.

Questions or Comments? Contact Chris Mendez at 720.352.7326 or cmendez@ccionline.org.

Tourism, Resorts & Economic Development (TRED)

HB09-1109, Expand Foreclosure Protection Act (Priola, Veiga)

CCI Position: Support

HB 1109 modifies the definition of "residence in foreclosure" to include not only residences against which a foreclosure action has already been commenced, but also residences subject to a mortgage loan that is delinquent or in default and against which foreclosure is authorized. This legislation will extend the protections of the law to owners who are not yet in foreclosure but who are in imminent jeopardy of being in foreclosure and therefore susceptible to unscrupulous consultants who assert that they can help the owner avoid it. The commissioners also asked that CCI assist with dissemination of the Colorado Foreclosure Protection hotline number: 1-877-601-HOPE (4673).

Questions or Comments? Contact Chip Taylor at 303-883-9380 or jtaylor@ccionline.org.

Transportation & Telecommunications (TT)

HB09-1114, Devolve State Commuter Highways to Local Governments (Vaad)

CCI Position: Oppose

Rep. Vaad's bill on devolution of highways creates a large unfunded mandate to local governments by virtue of a requirement that "commuter highways", or those sections of state highways located within a metropolitan planning organization, be turned over to local government jurisdiction by resolution of the Transportation Commission. While the bill states that such devolution shall not be deemed to require CDOT to cease working on or funding an incomplete highway project, there is not adequate provision for the local governments to accept or consent to such action and does not require that the bill be a funding mechanism for road maintenance and safety be in place before the turn-over occurs.

SB09-078, Devolve State Highways to Local Governments (Newell/Rice)

CCI Position: Support

SB 78 takes a different approach from HB 1114 and builds on an existing program within CDOT, the Maintenance Incentive Pilot Project (MIPP). The MIPP is designed to identify those state highways, or portions thereof, that are no longer viable for CDOT to retain on the state system

and turns those portions over to local government jurisdiction. The key element of SB 78 is the preceding intergovernmental agreement required between CDOT and the local government(s) as well as the agreed upon remuneration from the state to the local government. The demand for the program has thus far outpaced the funding available and CCI supports the approach of cooperation among governments to provide the best quality and safety of the highway system.

Questions or Comments? Contact Chris Mendez at 720.352.7326 or cmendez@ccionline.org.

ANNOUNCEMENTS

Mineral Employee Residence Reporting Cycle Begins Again

In December 2008, the Department of Local Affairs (DoLA) mailed Colorado Employee Residence Reports (CERRs) to companies involved in the production of minerals and mineral fuels. This is done each year as directed by Colorado Revised Statute 39-29-110 (1) (c).

The forms are used to determine residence of certain mineral and energy industry workers. This information is then used as one of the metrics used to determine the basis for distribution, by DOLA, of State Severance Tax and Federal Mineral Lease direct distribution payments to local governments. Once the information is made available to DOLA by the producers, we will distribute it to counties and municipalities via email. We encourage you to do three things:

1. Talk to industry officials soon to encourage them to complete the forms correctly, accurately, and expeditiously.
2. Review the information on the completed forms you receive from us for accuracy based upon your knowledge of industry employees residing in your jurisdiction.
3. Consider the formation of a joint county/municipal committee to review reports for accuracy.

Once all information is collected, the Oversight Committee will convene and review data, and "cure" any inaccuracies or ambiguities that can be determined. DoLA will then use final figures as part of the formula to distribute both Severance and Federal Mineral Lease direct distributions. Both of these distributions will be made by August 31st, 2009.

CTF POPULATION CHALLENGE INFORMATION

The Colorado Department of Local Affairs (DoLA) is beginning its process for calculating the July 2008 population estimates used in the Conservation Trust Fund (CTF) program. The first phase of this process involves estimates of **Total Housing Units and Group Quarter Populations (GQP)** such as college dormitories, prisons and nursing homes. This data will be used as a foundation for your entity's population estimate.

This year DoLA is changing its population estimates process. In December of 2008 DoLA sent out for review and posting on their website counties **Housing Units and GQP** for review and challenge. Counties were given 45 days to review this data and supply any needed updates. This will be the only time during the estimates process that counties will be able to update their housing unit and GQP data.

This change in policy will result in important efficiency gains in producing the estimates in a timely fashion and provide DoLA with the foundation for population estimates at the beginning of the process when it is needed.

If you have questions regarding this change please contact Richard Lin at richard.lin@state.co.us (303) 866-4989 or Elizabeth Garner, State Demographer, at elizabeth.garner@state.co.us or (303) 866-3096.

Local government input and involvement in the estimates process ensures the most accurate data for your CTF distribution. Thank you again for your assistance and cooperation.