

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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New Funding for Locals: A Key Provision in FASTER

It has been a wild ride since SB 108 *Transportation System Planning and Funding* (Gibbs, Rice) was introduced on Friday, January 23. Also known as the “FASTER” bill, which stands for Funding Advancements for Surface Transportation and Economic Recovery Act of 2009, SB 108 passed two senate committees last week on party-line votes. FASTER has one more committee stop before heading to the Senate.

As reported in the January 16th edition of CCI's *Legislative Report*, CCI supports FASTER. FASTER will raise a total of \$200 - \$250 million in new revenue for transportation projects through a combination of new surcharges, increased registration and rental car fees and fines. Out of that total, roughly \$150 million will go to the Highway Users Tax Fund (HUTF) and will be further appropriated to the state and local governments via a formula that currently exists in statute. Under this formula, counties will see an additional \$35 million in new HUTF dollars which can be used to repair, maintain and construct county roads and bridges.

The local share provision in SB 108 is significant for counties. The last time counties received a share of new transportation funding was in 1991. And while there have been new sources of revenue designated for state highways since then, counties have been excluded from those funding packages. Whether it is an arterial road, a county highway or a major thoroughfare, local roads are a part of the state's transportation system and SB 108 goes a long way in recognizing this fact.

In addition to SB 108's local share provision, the bill gives deference to local governments on issues like establishing VMT (vehicle miles traveled) pilot programs and tolling existing lanes. And while CCI does not have a standing policy on VMT, our policy as it pertains to tolling is as follows:

CCI recognizes that tolling may be an appropriate method of meeting transportation revenue needs in some circumstances, however, CCI is concerned about the impacts of tolling and supports requiring consultation with affected local entities prior to authorizing tolls on highways, bridges, tunnels or other transportation facilities. CCI opposes tolling of any existing facility when there is no reasonable alternative route available to the traveling public.

If you haven't already contacted your Senator and asked for their support on SB 108, this is an excellent time to do so. You can find contact information for your Senator at the back of this week's *Legislative Report*. And, if you speak to your senator, please let Gini Pingnot (gpingenot@ccionline.org or 303.861.4076x226) know the results of your correspondence.

Budget Watch

By now, you have likely heard that Colorado faces a budget shortfall of roughly \$1 billion over the course of the next 18 months. To address this shortfall, the Governor has proposed furloughs for state employees, the closure of correctional facilities, reductions in higher education and K-12 funding, the suspension of the senior property tax exemption and more.

Some of the Governor's proposed cuts will directly and indirectly impact counties. Here's a summary of some of the Governor's proposed cuts that will directly impact counties.

For the current fiscal year (i.e. SFY 2008-2009)

- \$15 million cut from DoLA's Mineral and Energy Impact Fund
- \$1.8 million cut from Child Welfare Block Grant
- \$193,284 cut in "per capita" local public health dollars
- \$833,333 cut in County Administration (includes loss of federal dollars)

For the next fiscal year beginning July 1, 2009 (i.e. SFY 2009-2010)

- \$15 million cut from DoLA's Mineral and Energy Impact Fund
- \$4.6 million cut from the Child Welfare Block Grant
- \$7.4 million cut from Health Care Policy and Financing's Eligibility Modernization Initiative (CCI supports this cut)
- \$2 million cut in County Administration (includes loss of federal dollars)

Clearly the state's budget situation is dire. CCI has expressed to the Governor that counties, like the state, are dealing with their own decreased revenue projections.

On March 20th, the state will release its revised budget forecast for the upcoming fiscal year. This forecast will clearly affect the budget cuts currently being contemplated by the state.

CCI will continue to keep you posted on all these moving parts and what they mean for counties and their budgets. You can find additional information on the Governor's proposed cuts by going to the Governor's Office of State Planning and Budgeting website (<http://www.colorado.gov/ospb>).

General Government (GG)

HB09-1040, Unfunded Mandates on Local Governments (Vigil)

CCI Position: Support

This is a CCI legislative priority. Over the years the State has passed down unfunded mandates to the counties. Although Colorado has a statute which protects counties from unfunded mandates, the counties often choose to implement the mandates anyway because the safety or health of citizens depends on county implementation. During these difficult financial times, counties are saying "fix it, fund it or eliminate it."

HB-1040 asks the Department of Local Affairs to annually compile a report on unfunded mandates passed during the legislative session. This report would help local governments, the state and new legislators better understand the impact of policy implementation that is passed on to the counties.

SB09-06, County Jail ID Unit (Solano, Boyd)

CCI Position: Support

This bill comes out of a standing legislative interim committee dealing with mentally ill people in the criminal justice system. The bill expands an existing program within the Dept. of Corrections. One of the major barriers for mentally ill inmates in accessing benefits is a lack of identification. Mentally ill inmates without identification, upon release from county jails are more likely to recidivate, not only costing the county more money, but additionally keeping mentally ill people in the criminal justice system.

The Division of Motor Vehicles will visit metro area county jails to process identifications for inmates. The jails will provide the resources for collecting required paperwork and will submit annual data detailing the successes and challenges of the program to the Department of Revenue. Although this bill drives a small fiscal note, it is an inexpensive program that can save important resources.

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

Health & Human Services (HHS)

HB09-1047, Concerning a Program for Providing Additional Therapies to Certain Persons with Disabilities who are Eligible to Receive Medicaid (Todd, Williams)

CCI Position: Monitor

The bill establishes a pilot program allowing Medicaid clients with spinal cord injuries who are eligible for Home and Community Based Services (HCBS) to receive complementary or alternative therapies. Alternative therapies are limited to chiropractic care, massage and acupuncture performed by licensed or certified providers. Independent evaluation of the program is required in the third year. The State Medical Board is required to adopt rules for the implementation and administration of the program, and the bill includes a repeal date of September 1, 2015.

The purpose of the pilot program is outlined in the bill as follows:

- to expand the choice of therapies available to persons with disabilities;

- to study the success of alternative therapies; and
- to produce overall cost savings.

The witnesses were compelling and knowledgeable, describing the benefits and savings to the system from the use of these alternative therapies. Patients with spinal cord injuries present highly specific types of health care challenges such as pressure injuries that are greatly alleviated by the use of the various alternatives permitted in the bill. While there is a cost increase initially, to match the increased spending of Medicaid, other states such as Florida have seen dramatic reductions in costs and care when alternative therapies are in use.

SB09-53, Concerning Support Arrearages that Accrue Prior to an Applicant's Eligibility for Public Assistance (Tochtrop, Schafer)

CCI Position: Support

The bill makes changes in how the Department of Human Services (DHS) collects child support payments from someone receiving public assistance through the Colorado Works Program. The DHS may only collect child support currently due and delinquent child support that accrues while the person is receiving public assistance. These changes are mandated by the Federal Deficit Reduction Act of 2005, and must be reflected in Colorado's law. Under current law, the state may also collect delinquent child support that accrues prior to the person receiving public assistance. This change will correct an inequity that currently exists - insuring that the person collecting the owed support that accrued prior to one becoming eligible for services will still go to the individual rather than to the state. CCI supports this change, recognizing that fairness dictates that support arrearages that pre-date assistance services are rightfully owed to the individual charged with care of dependent children.

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

Land Use & Natural Resources (LUNR)

SB09-22, Concerning the State Board of Land Commissioners (Bacon, Solano)

CCI Position: Oppose Unless Amended

This bill increases from \$1 million to \$5 million, the annual limit of payments generated from state school lands that can be credited to the State Board of Land Commissioners Investment and Development Fund and removes the repeal of the fund. SB09-022 authorizes the board to take actions necessary for a portion of state or school lands to be incorporated, annexed or otherwise included within a local government entity for land use planning and land entitlement purposes. The board is exempted from certain requirements pertaining to professional service contracts when making expenditures from the fund.

The bill also exempts the State Land Board from advertising requirements when selling state lands to a governmental entity. For purposes of expenditures from the investment and development fund, it exempts the State Land Board from the following requirements pertaining to professional services contracts:

- Procedures for preliminary selections of contractors to provide professional services; and
- Deadlines pertaining to the execution of and expenditure of funds for a professional services contract.

CCI is somewhat concerned with clarifying the local land use authority that would apply to State Land Board lands when annexed or otherwise included within normal land use regulatory purview. We have had helpful conversations with the sponsor and will work on possible amending language, if necessary.

SB09-80, Concerning Limited Exemptions for Water Collected from Certain Residential Rooftops (Isgar, Looper)

CCI Position: Support

This legislation will permit limited rainwater collection from roofs, for a land owner who has an exempt well permit. As amended, the bill ties the collection and use of the rainwater to the specific uses reflected in the well permit the individual has or would have if ground water were available. By tying the rainwater rooftop collection to the uses permitted by the property owner's exempt well permit, the bill virtually guarantees no injury. It makes no significant difference whether water comes from an aquifer or precipitation collection so long as the uses are in sync. This bill, as amended in the Senate Agriculture Committee, will improve the options available to property owners in rural areas of the state, where exempt well permits are more prevalent.

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

Public Lands (PL)

SB09-20, Wild Land-Urban Fire Chain of Command (Gibbs, Scanlan)

CCI Position: Monitor

This bill came out of an interim committee that met last summer dealing with wildfire in Colorado. This bill seeks to clarify the chain of command in the counties when a wildfire occurs. Current statute states that County sheriffs are the fire authority in the county and the bill reaffirms this authority. The bill goes further, however, allowing county commissioners to determine the point person for fire emergencies in the counties.

This bill will not impact most counties since they have plans in place to deal with fire emergencies. For those counties that have a large number of fire districts, requiring much more coordination, this bill may provide an opportunity for a clear plan within the county.

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

As introduced, HB 1051 would require that the current distribution of federal mineral lease (FML) revenues for the Department of Local Affairs' (DoLA) grant program instead 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.

The bill was heard in the House Agricultural, Livestock and Natural Resources Committee on Wednesday after a strike below amendment to the bill was offered by the sponsor. The strike below modified the bill to take ten percent of all state receipts of FML revenue "off the top" from the natural distribution and place that amount into a new "County of Origin Construction Cash Fund", leaving the remaining ninety percent to be distributed as per current law under SB08-218. The new fund is to be distributed to counties and used for "the construction of public facilities." The amendment stated the county "may" also distribute funds to a municipality but that section was subsequently amended to include municipal distribution in reference to current law. Finally, the bill was further amended in committee to include language to direct fifteen percent of the new revenue to "counties where energy conversion takes place in proportion to the amount of energy that is converted in each county."

While CCI testified in opposition to the introduced bill, as was true for DoLA and CML, it is a work in progress for further discussion with the sponsor and interested parties.

HB09-1130 Sales Tax Collection by County Governments (B. Gardner, Isgar)
CCI Position: Support

A CCI-initiated bill, HB-1130, as introduced, would have required the Department of Revenue, upon county initiative, to enter into an IGA for the collection of county sales tax. The introduced bill also would have exempted multi-county "spreadsheet" filers, allowed for the adoption of provisions to collect other sales tax entities' sales taxes in addition to the county sales tax and other related provisions.

After much debate and deliberation on the complexity of the bill with the Department of Revenue, Colorado Municipal League and the business community, a strike below amendment was offered to permit, not require, a county or municipality to enter into an IGA with the Department in order to enhance systemic efficiencies in the collection of sales taxes and adds a reporting element to the existing report provided by Revenue to the Joint Finance Committees. The bill was heard and passed unanimously with the amendment by the House Local Government Committee on Thursday. While the bill does not allow for local collection of sales taxes by counties, it is a modest but important step in continuing the cooperative work between counties and the Department.

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

Tourism, Resorts & Economic Development (TRED)

SB09-41, Private Activity Bond Ceiling Allocation (Romer, Vigil)
CCI Position: Support

SB 41, which 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, was approved by the Senate Finance Committee last week. It passed with amendments which clarify that the fees are assignable, that fees are not due until bond issuance and increasing the permissible reserve for the Division of Housing. There are continuing discussions about the extent of an exemption for mortgage credit certificate programs, as well as the impact of delaying the due date for fees until bond issuance. The

latter is a concern because the Division incurs expenses from the time it makes the allocation, as much as three years earlier.

HB09-1138, Property Interests and Limitations on Rent Control (Curry, Schwartz)
CCI Position: Support

HB 1138 is scheduled to be heard by the House Local Government Committee on Tuesday, February 3. It specifically authorizes local governments to enter into and enforce contracts, including existing contracts, which control rent on private residential housing units. It also enhances the enforceability of covenants, deed restrictions or similar instruments that control rents and provide for enforcement by public entities.

HB09-1109, Expand Foreclosure Protection Act (Priola, Veiga)
CCI Position: Support

HB 1109 is calendared for hearing by the House Business Affairs Committee on Wednesday, February 4. CCI voted to support this legislation to extend the protections of the law to owners who are not yet in foreclosure but who are in imminent jeopardy of being in foreclosure because they are delinquent or in default and therefore susceptible to unscrupulous practices.

Questions or Comments? Contact Chip Taylor at 303-861-4076 or jtaylor@ccionline.org.

Transportation & Telecommunications (TT)

SB09-078, Allowing an Exemption from Utility Notification for Routine Road Maintenance (Newell, Rice)
CCI Position: Support

As a CCI and CARSE priority issue for a number of years, SB 78 would have created a very narrow exemption from current utility notification statutes. Specifically, the exemption would have applied to routine road maintenance on nonpaved roads only and was specific to blading or scraping washboards out of the surface of the road at least once per year without changing the contour of the road itself. The exemption specifically excluded any activity that could be considered "excavation." The bill also included language requiring immediate utility location upon discovery while ceasing activities in the immediate area.

Despite testimony by Larimer County and CCI demonstrating years of data, giving the background, safety purposes for the exemption and benefit to the UNCC system as a whole, the bill failed in the Senate Transportation Committee on Thursday. Testimony from multiple oil and gas industry groups, Denver Water and Wastewater, as well as, Weld County on potential future harm and injury led to the bill's demise.

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