

# Legislative Report

## CCI Meeting Reminder

All steering committee meetings are held at CCI.

### Friday, March 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, March 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

For access to other *Legislative Reports*  
go to: [www.ccionline.org](http://www.ccionline.org).

800 Grant St., Suite 500  
Denver, CO 80203  
Ph) 303.861.4076  
Fax) 303.861.2818  
[www.ccionline.org](http://www.ccionline.org)

## Budget Balancing Efforts Underway

Last Monday, the General Assembly held a rare joint budget session. The State's Chief Economist, Natalie Mullis and Joint Budget Committee (JBC) Staff Director, John Ziegler, highlighted the state's current revenue projections and explained the JBC's proposal to balance the current fiscal year's budget (SFY 2009) which ends June 30, 2009. The last time the General Assembly held such a session was in 2003 when the state was facing similar shortfalls.

As of Monday, February 16, the state was facing a \$625 million shortfall in this year's budget. The graphic on the following page illustrates the JBC's suggested approach to address this \$625 million shortfall. The following is a narrative description of the graphic from bottom to top.

- 1.) *Cash Fund Transfers to the General Fund (\$230.9m)*. SB09-208 implements this proposal and targets funds such as the Colorado Water Conservation Board Construction Fund and the Hazardous Substance Response Fund. It should be noted that the Governor's proposal to transfer \$15 million from the Local Government Energy and Mineral Impact Fund to the General Fund for SFY 2009 was not adopted by the JBC and does not appear in SB09-208. CCI commends the General Assembly for recognizing the importance of this fund to local governments and for leaving it intact. At this point, the JBC has not decided whether it will use any of the Local Government Energy and Mineral Impact Fund for next year's budget which begins July 1, 2009.
- 2.) *Reduce Statutory Reserve (\$148.6m)*. The state is statutorily required to maintain a reserve equal to 4% of the state's general appropriations. SB09-204 taps into that reserve and reduces it to 2% for the current fiscal year.
- 3.) *Federal Medical Assistance Percentage (FMAP) Estimate (\$107.7m)*. The FMAP is the percentage that the federal government pays for its share of the Medicaid program. Prior to the passage of the American Recovery and Reinvestment Act (ARRA), the state of Colorado paid 50% of all Medicaid expenditures and the federal government paid the other 50%. Recognizing the rise in unemployment and falling state tax revenues, the ARRA

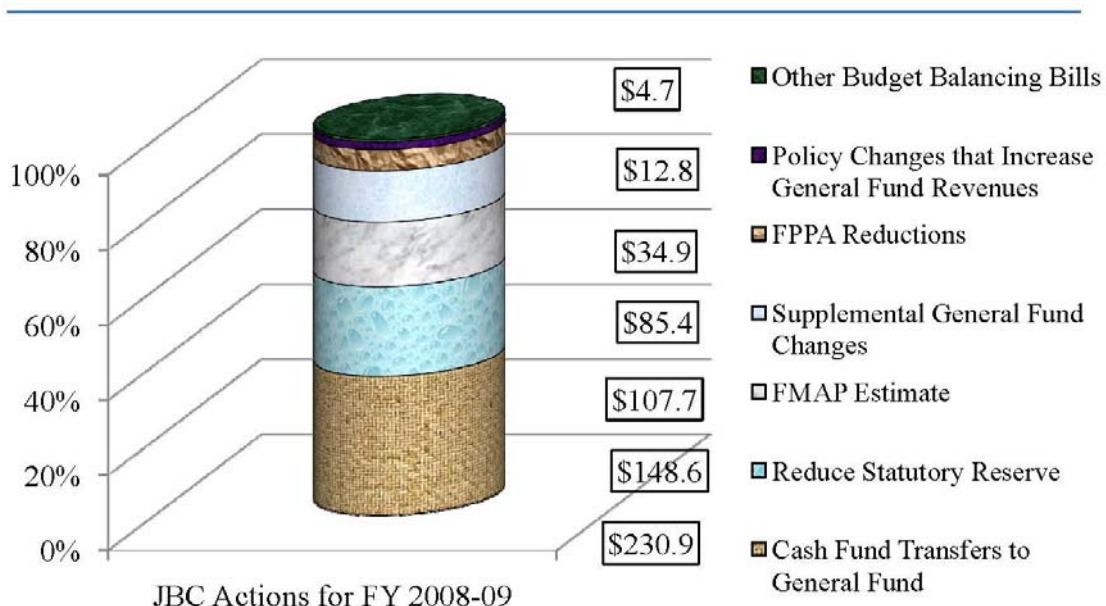
readjusted the FMAP by increasing the federal government's share to roughly 59%. This will help close the state's budget shortfall.

- 4.) *Supplemental General Fund Changes (\$85.4m)*. This includes the elimination of various state programs. It also includes savings generated from the state's hiring freeze.
- 5.) *Fire and Police Pension Association (FPPA) Reductions (\$34.9m)* –The statutes require the state to pay part of the unfunded liability of police and firefighter retirement plans for individuals who were hired before 1978. SB09-205 eliminates the state's annual payments to the FPPA for the next three fiscal years and resumes the state's payments beginning in SFY 2011-2012.
- 6.) *Policy Changes that Increase General Fund Revenues (\$12.8m)* – Under existing law, vendors are allowed to keep a portion of the sales taxes they collect as compensation for collecting and remitting the sales tax. The JBC proposes to temporarily reduce the cap on the amount of sales tax a retail establishment can retain from 3.3% to 1.4%. SB09-212 implements this policy change.
- 7.) *Other Budget Balancing Bills (\$4.7)* – In addition to eliminating programs outright, the state is also proposing to delay the implementation of programs. The Child Welfare and Mental Health Services Pilot Program and the expansion of the Children's Basic Health Plan (CBHP) are two such programs which will be delayed.

It is important to note that the \$625 million hole in this year's budget could shrink or expand over the next few months. On March 20, the state will release another quarterly economic forecast. This will give policymakers a better understanding of the state's revenue situation and will dictate whether more cuts are needed. Additionally, the state is scrambling to analyze the ARRA which will funnel almost \$2 billion over the next few years to the state. There is a good chance that some of this funding can be used to help patch this year's budget. One opportunity for such a patch, is the roughly \$140 million in state stabilization funding the Governor can use at his discretion.

The Senate has completed its review of the JBC's proposal to balance this year's budget. This week the House will get a chance to debate and amend the proposal. Meanwhile the JBC has already directed its attention to next year's budget (July 1, 2009 – June 30, 2010) and we should know in the near future what that proposal looks like and what it will mean for counties.

## Components of JBC's FY 2008-09 Budget Balancing Package (millions)



## General Government (GG)

---

### **HB09-1135, Adjustment of County Fees (Judd, White)**

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

This is a CCI Legislative priority. HB09-1135 seeks to update county fees that are so low that counties actually subsidize many of the businesses using the services the counties provide. The bill asks for modest increases in Title 30 to County Clerk, Treasurer and Sheriff fees, most of which have not been increased since the late 1980's. The bill also indexes these fees to a consumer price index, which will allow county fees to stay closer to the cost of doing business in this state. Colorado's fees, especially Clerk and Treasurer fees, are woefully inadequate and, when compared with surrounding states, embarrassingly low.

CCI understands that the amount of the fee increases is significant and the fiscal and political environment this year does not lend credence to running a fee bill. However, partisanship aside, counties currently cannot collect enough money to cover the costs of some services offered to businesses, and are unable to raise fees on their own.

### **SB09-180, Collective Bargaining by Employees of Public Safety Agencies (Tochtrop, Casso)**

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

SB09-180 is an unfunded mandate forced on local governments. The bill calls for collective bargaining processes to be implemented in local law enforcement agencies. To implement this bill, Denver metro area Sheriff Departments would have to hire at least two full time employees to comply with the bill. The fiscal impacts on rural county sheriff departments could be significant as well. Counties do not have the fiscal resources to comply with another unfunded mandate coming down from the state legislature.

The bill can also be interpreted as preempting existing collective bargaining agreements that local voters approved. Additionally, SB09-180 interferes and supersedes home rule charters for local governments by forcing a mandated process on local law enforcement agencies. County Sheriffs, many Colorado Police Chiefs and the Colorado Municipal League all strongly oppose this bill.

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

## Health & Human Services (HHS)

---

### **HHS 08-09 Budget Reduction Impacts**

There are three Joint Budget Committee bills, SB 09-206, SB09-207 and SB09-211 that are part of the larger package of bills that enact the budget reductions for state fiscal year 2008-09. In addition to the reductions to department operations and programs, some of which impact county functions, there are also several programs that will be either repealed altogether or delayed by up to seven years.

SB09-206 will repeal the developmental disability waiting list pilot navigator program. This program was adopted in HB08-1031, by Rep. Pommer and Sen. Keller. This program was intended to create a pilot program in consultation with the community centered boards, to

serve individuals and their families waiting for developmental disability services.

SB09-207 delays the child mental health pilot which was funded in the 2008-09 budget. The 2008-09 budget had a line item of \$2,100,169 for the development and implementation of a program to provide mental health screening and evaluations and mental health services for any child, age 4 through 10, who is the subject of a substantiated case of abuse or neglect. The bill will delay all the current implementation dates by seven years. It is hoped that there will be sufficient funds in the future to re-enact this program and for that reason the bill delays rather than repeals the program.

SB09-211 will eliminate the requirement that the Children's Basic Health Plan expands to 224 percent of the federal poverty level (FPL) for children in Colorado. This was scheduled to take effect by March 1, 2009, so this bill in particular must be on the Governor's desk by March 1 in order to avoid direct conflicts in statutes and program spending. SB 08-160 authorized the increased spending, and the bill itself isn't being directly repealed in whole, so if future appropriations permit, the state could still spend up to 250 percent of the FPL.

There are also a large number of cash funds that are targeted for transfer to the general fund, but this part of the bill package is still being reviewed and may be amended over the next few days.

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

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

---

#### **HB09-1258, Concerning Limitations on the Ability of a Home Rule Municipality to Acquire Real Property Outside its Territorial Boundaries by Means of Condemnation (Mitchell, Gardner, B.)**

#### **CCI Position: None, Postponed Indefinitely**

Effective September 1, 2009, HB09-1258 limits the ability of a home rule municipality to condemn property located outside of its territorial boundaries unless certain conditions are met. The bill specifies notification requirements for the proposed action and outlines voting requirements for the governing body of the home rule municipality based on the position taken by the local government where the property in the proposed condemnation is located.

The bill authorizes a change in venue and a jury trial at the discretion of the property owner to a judicial district that does not include either the home rule municipality or the local government where the property is located. If the home rule municipality prevails at trial, the property owner is entitled to recover damages equal to 1.5 times the appraised value of the property based on the property's highest and best use as compensation for the loss of the property. If the property owner prevails at trial, the owner may recover all of its reasonable attorney fees and costs from the municipality. Finally, the home rule municipality must make payments in perpetuity to the local government for the loss of any tax revenue incurred as a result of the acquisition.

This legislation appears to be a response to the Telluride case, and as such was of interest to counties.

**HB09-1201, Concerning a Requirement that Local Governments Address the Adverse Effects of Development in Close Proximity to Military Installations in Connection with Land Use Planning by the Governments (Labuda, Spence)**  
**CCI Position: Oppose**

The bill requires local governments to address the adverse effects of development in close proximity to military installations through changes in land use planning. For affected cities and counties in these affected areas, changes will be necessary to master plans, zoning regulations and building codes to regulate future development and to incorporate sound attenuation standards. The bill also requires public notification of changes being considered through publication in a newspaper of general circulation. This will result in additional publication costs. Local governments whose master plans, zoning regulations and building codes already satisfy the requirements of the bill are not subject to additional requirements. CCI is concerned with the wide array of implications for land use and planning, as well as the potential deleterious impact for local land owners and private property rights.

The military installations covered by the bill include Buckley Air Force Base, Cheyenne Mountain Air Force Station, Colorado National Guard High Altitude Aviation Training Site, Fort Carson Army Post, Greeley Air National Guard Station, Peterson Air Force Base, Schriever Air Force Base and the United States Air Force Academy.

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

**Public Lands (PL)**

---

**HB09-1199, Healthy Forests Vibrant Communities Act (Scanlan, Gibbs)**  
**CCI Position: Support with Amendments**

This is a comprehensive forest health bill. This bill seeks to adopt clearer standards for community wildfire protection plans and implement risk mitigation treatments through cost share programs. The bill also seeks to support local businesses that wish to find additional uses for beetle kill wood and other timber in Colorado. The bill provides loans for start up capital for small businesses seeking to help mitigate the extraordinary amounts of hazardous fuels in Colorado forests.

Funding for these programs will come from tier II severance tax funding from the Department of Natural Resources (DNR). DNR would do a one time transfer of \$2.95 million, divided up among the multiple programs established in the bill. This money is essential for continuing to implement forest health projects in this state. The bark beetle infestation continues to spread, the watersheds continue to be threatened and the question of a catastrophic wildfire is not if but when in this state. The federal, state and local governments involved need resources to battle the problem and this bill takes an important step toward potential solutions.

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

## Taxation & Finance (TF)

---

### **HB09-1250, Federal Money to County for School Districts (Merrifield)**

**CCI Position: Oppose**

CCI opposes HB09-1250 as it is a one-size-fits-all approach to a very complex issue. HB09-1250 would change the minimum allocation of federal forest payments distributed to school districts by counties from a current 5% up to a minimum of 50%. With the brevity of the introduced bill, it would seem to be a simple inquiry: more money for public schools, however, the situation is not at all that simple.

Congress reauthorized the Secure Rural Schools and Community Self-Determination Act (SRSCSDA) of 2000 this past fall while at the same time reauthorized full funding for the Payment in Lieu of Taxes (PILT) program. These twin authorizations were part of larger emergency legislation to help stabilize the U.S. economy. The reauthorization of SRSCSDA was for four years and PILT for five years.

There is interplay between the two funding mechanisms. PILT was designed by Congress to compensate local governments for lost property tax revenue. Until last year PILT had never been fully funded by Congress. Separately, the SRSCSDA was passed by Congress in 2000 to provide forest counties an alternative to prior vagaries of forest payments through the U.S. Department of Agriculture. Under PILT rules, any payments to schools of SRSCDA funds will not act as "prior year payments" under PILT for the subsequent year, however, requiring a minimum payment under SRSCDA as under HB09-1250 may not be offset by a county's PILT payment in the following year, thereby reducing the total amount of federal funds receivable by that county and statewide.

### **SB09-173, Regional Tourism Projects (Veiga, Rice)**

**CCI Position: Oppose**

SB09-173 creates a mechanism for a local government to undertake a regional tourism project (project), to create a regional tourism zone (zone) in which the project will be built, and to create a regional tourism authority (RTA) or to designate other financing entities with the power to receive and utilize tax increment financing (TIF) with revenues derived from the state sales tax collected in the zone to be used to finance "eligible improvements" related to the project.

While the bill's structure and new authority seem to be mainly creating RTAs, a "financing entity" under the bill may be an existing urban renewal authority (URA) created under Title 31.

Under the bill, an existing or new URA could utilize not only the state sales tax increment for up to 30 years, but also the locally-assessed property tax for up to 25 years, per current law, leaving virtually no taxes generated for decades on specific development projects.

CCI believes that urban renewal statutes are in dire need of reform in many ways and that SB09-173 will not only create yet another vehicle for diversion of voter-approved taxes for private, special interests (without a vote of the people) but also will exacerbate the problems with existing urban renewal law.

For state tax year 2007 alone, over \$107 million was diverted from property tax entities statewide by TIF. Of that figure, roughly \$50 million was diverted from school districts which the state is obligated to backfill under the School Finance Act.

*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**

HB09-1109 extends the protections of the law to owners who are not yet in foreclosure but who are in imminent jeopardy of being in foreclosure because of delinquency or default, therefore are susceptible to unscrupulous practices. As discussed at the steering committee meeting on February 13, the bill has been amended to require that owners be at least 30 days delinquent in order to avail themselves of the foreclosure protection act. HB09-1109 is scheduled to be heard in Senate Business Affairs this Wednesday, February 25.

### **HB09-1213, Housing Development Grant Fund (Gagliardi)**

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

HB09-1213 creates a housing development grant fund to improve, preserve and expand the supply of affordable housing in Colorado. As introduced, the fund is dependent on gifts, grants and donations, however CCI voted to support the creation of a mechanism for making these expenditures. As amended by the House Local Government Committee on February 12, permissible expenditures would also include foreclosure prevention activities through June 30, 2011. HB09-1213 now awaits review by the House Finance Committee but as yet has not been calendared.

### **HB09-1220, Property Owner Authority to Set Price (Scanlan)**

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

HB09-1220, which was intended to permit property owners to determine for themselves the price at which they will sell or lease their property, is now pending on the House floor. It does so by outlawing HOA covenants or restrictions on an owner's right to set the price or establish occupancy requirements.

It was amended substantially by the House Local Government Committee on February 17 to limit its applicability to counties with less than 100,000 population and a ski lift, require owner-occupancy, allow future owners to substitute one affordable unit for another in the same community, and also specify that the bill's restrictions do not apply to declarant-controlled communities (generally, communities still managed by the developer). These amendments significantly diminish the impact of the bill and will have to be reviewed by CCI's members.

*Questions or Comments? Contact Chip Taylor at 303.861.4076 x 231 or jtaylor@ccionline.org.*

## Transportation & Telecommunications (TT)

---

### **HB09-1244, PUC Deregulate Trucking Motor Carriers (Casso)**

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

HB09-1244 would cease the regulatory oversight of the Public Utilities Commission on the "VIN stamp program" specific to property carriers. Proponents of the bill state that recent increases to fees associated with the program have driven up the cost of doing business for intrastate carriers and are a remnant superseded by recent changes to insurance information and requirements. Opponents of the bill state that the program is important to the safety of the PUC oversight and inspection system, thus, is needed as a result of reductions in federal funds in recent years and could disparately impact other PUC-regulated motor carrier entities.

The bill was heard in House Transportation on Thursday and passed 7-3 and was sent to the Appropriations Committee.

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