

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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Business Personal Property Tax

Just as CCI has its perennial legislative issues, the business community has its perennial legislative issues as well. One of those is the business personal property tax (BPPT). Each year the General Assembly debates the BPPT and what, if anything can be done to relieve the business community of this tax. This year is no different.

The BPPT is a tax on items used in an income-generating capacity. This includes machinery, furniture and computers. It also includes assets frequently referred to as "state assessed personal property" like cable lines, pipelines, and utility and phone lines. Colorado is one of 41 states that taxes business personal property.¹

Property tax is the primary county revenue stream and counties rely on the revenue generated from the BPPT to varying degrees. In 2008 only about 1.87% of Hinsdale County's total assessed value comes from business personal property, however, 44.16% of Morgan County's assessed valuation consists of business personal property. A complete list of counties and the portion of the county's assessed valuation that is comprised of business personal property can be found at the back of this week's *Legislative Report* (see Table 1).

On the taxpayer side, 84,000 businesses paid personal property taxes to local governments in 2003.² However, just 1% of these companies paid 74% of the total business personal property taxes. These companies include some of the largest utility companies in Colorado, such as Qwest and Xcel Energy.

¹ Business Personal Property Taxes in Other States, August 19, 2004 report produced by Colorado's Legislative Council Staff

² Legislative Council's November 2004 report from the Interim Committee on Economic Development – Business Personal Property Tax

Given this fact, one can generalize that rural counties with a power plant, pipeline or other state assessed personal property are most dependent on personal property for property tax revenues. Those counties with the highest proportion of their tax base attributable to personal property are Morgan, Baca and Moffat counties.

As mentioned earlier, each year legislators explore ways to either eliminate or limit the scope the business personal property tax. Eliminating the business personal property tax has two major fiscal impacts. The first impact results from the simple decrease in the tax base. As noted above, Table 1 (attached) illustrates the hit to each county's tax base.

A second impact, harder to fathom but no less significant, would result from a reduction of the residential assessment rate required by the Gallagher Amendment. The Gallagher Amendment sets the residential-to-business property tax ratio at roughly 45:55%. Exempting any portion of the value of business personal property requires a corresponding reduction in residential assessed value, achieved by an automatic drop in the residential assessment rate.

While CCI will quickly point to the local government fiscal impacts of eliminating the business personal property tax, it should be noted that CCI has supported reasonable efforts to limit the scope of the business personal property tax. Last year, for example, CCI supported and helped pass HB08-1225. This bill gradually increases the business personal property tax exemption. CCI's members, along with many others, argued that HB08-1225 was a reasonable approach to limiting the onerous nature of the BPP tax on small business while also limiting the county's collection burden resulting from these smaller tax bills.

There are other reasons that policy makers need to move cautiously. The amount lost to school districts under any reduction or elimination of BPPT must be backfilled by the state. Also, eliminating this tax on machinery and equipment shifts the load to other types of businesses.

Counties are not anti-business. On the contrary, counties readily acknowledge the contribution and importance of thriving businesses to their communities and do a lot to promote commercial activity within their jurisdictions. Having said this, counties do rely on the revenue generated from the business personal property tax. The truth is that county services would suffer greatly without business personal property tax revenue. And, these are the very services businesses rely on to attract workers and create a standard of living that workers ultimately want.

General Government (GG)

SB09-14, County Home Rule Charter (Boyd, Kerr, J.) CCI Position: Pending

This bill streamlines and clarifies how counties are able to form a home rule commission prior to submitting a home rule question to the voters. The current process is extremely difficult and expensive for counties that wish to become home rule. Home rule counties are able to increase the number of commissioners, thereby providing better representation to constituents and are able to have more flexibility when dealing with issues within the county boundaries.

The bill proposes that the board of county commissioners, upon resolution or petition, appoints a home rule charter commission. The public continues to influence the selection process through public meetings. Once the home rule commission's charter, the proposed governance document for the home rule county, is developed, the board of county commissioners, in public

meetings, will be able to revise, reject or accept the charter and determine whether to submit the charter to the voters. The vote would have to be part of a coordinated or general election.

Status: Assigned to Senate Local government committee

**SB09-95, Construction Prompt Pay (Tapia, Riesberg)
CCI Position: Pending**

This is an annual bill returning to the General Assembly once again this year. Proponents argue that private and public entities are withholding payment on construction projects thereby harming the construction business.

The bill is very complex with language similar to the bill introduced last year (HB08-1306), but also adds amendments adopted from last year's committee hearing. The proponents of the bill worked to make HB08-1306 a more palatable bill for contractors and subcontractors, as well as trying to incorporate issues raised by opponents last year. The new bill, SB-95, does not accomplish this task.

This 49 page bill would add language to statute restricting the flexibility of public entities' dealings with contractors on public work projects. CCI opposed this bill last year. We met with proponents of the bill over the summer and heard their concerns, however, counties continue to be perplexed as to how the specific concerns expressed by subcontractors and contractors are addressed in the complexities of this 49 page bill.

Many of the areas listed in this bill are already covered in existing statute so counties continue to wonder why proponents of this bill demand that all 64 counties in Colorado bend to the complexities of this bill, when there are few problems with most of the counties.

Status: To be heard in Senate State, Veterans & Military Affairs on Monday, February 9th upon adjournment.

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

Health & Human Services (HHS)

**HB09-1103, Concerning Presumptive Eligibility under the Medical Assistance Program for Persons in Need of Long-Term Care (Reisberg, Newell)
CCI Position: Monitor**

The bill authorizes the Department of Health Care Policy and Financing to seek federal approval to allow people who are in need of long-term care to be presumptively eligible for Medicaid, including Home and Community-based Service Programs. If an application for Medicaid long-term care indicates that the person is eligible, services would be provided and paid for through Medicaid. If the client is later found to be ineligible, the state would likely be liable for costs incurred during the period of presumptive eligibility.

Under current law, the state does not pay for long-term care until eligibility is determined. However, once an applicant is determined eligible, Medicaid pays for services provided back to the date of application.

CCI will be requesting an amendment that simply clarifies that anyone provided Medicaid

services as a result of presumed eligibility under this legislation, who is found to be in-eligible, shall not create a liability to the county to collect ineligible costs. As with other presumptive eligibility legislation (SB08-161) the Department of Health Care Policy and Financing has agreed that counties do not incur any responsibility for collection or liability for ineligible expenditures when following the statutes.

HB09-1252, Concerning the Expansion of the "Local Access to Health Care Pilot Program Act" to Allow Creation of a Pilot Program in the San Luis Valley (Roberts, Massey, Vigil)

CCI Position: Pending

Several years ago the legislature authorized Pueblo County to create a local health care system called "Local Access to Health Care Pilot Program Act". This legislation would permit the San Luis Valley, through its boards of county commissioners to also take part in the pilot project for residents in the San Luis Valley. Furthermore, the bill grants both Pueblo and the San Luis Valley to give a preference to local health care providers, who are invested in the community, in the bidding process. This is viewed as both an efficiency measure in terms of existing infrastructure and an economic assistance matter for the local community providers.

This expanded pilot would continue to have reporting responsibilities, keeping the state advised on the progress of the pilot. Unique in this new version of the original bill is the recognition that a regional area like the San Luis Valley is geographically cohesive and the boards of commissioners are permitted to create an association for the purposes of carrying out this health care pilot program.

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

Land Use & Natural Resources (LUNR)

HB09-1217, Concerning the Creation of Local Improvement Districts for the Purpose of Improving Public Utilities (Murray, Scheffel)

CCI Position: Pending

This is legislation that originated in Douglas County as a result of community discussions regarding a variety of public utilities that are often unavailable to more rural areas of the county. The bill would permit the creation of Local Improvement Districts (LID) for the purpose of providing such unavailable services as gas, electric, geothermal, phone, cable and internet utilities improvements within the district. This is a unique approach to serving rural areas of the state, and is not unlike previous legislation to permit the creation of LIDs to provide the financing instrument for homeowners to acquire solar improvements such as photovoltaic systems.

This legislation is a creative approach to assisting rural communities and isolated neighborhoods to gain access to basic utilities such as cable or broadband internet access where none is available.

HB09-1231, Concerning Creation of an Oil Shale Development Task Force (Bradford, Kopp)

CCI Position: Pending

This legislation creates a three-person oil shale development task force, through the mutual agreement and consent of the Governor and the minority and majority leadership of the Senate and the House. This task force would be charged with holding public hearings to ascertain the impact of oil shale development on the state's environment and economic health. The task force would be required to hold periodic public hearings in the major west slope communities most impacted by current and prospective oil shale exploration and development. The task force would advise the General Assembly on the oil shale industry and development, and finally, the task force would be the official entity to provide comments on behalf of Colorado concerning all proposed actions by the federal government pertaining to oil shale development.

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

Public Lands (PL)

SB09-18, High Risk Wildfire Mitigation Grants (Kopp & Gibbs, King S. & Scanlan)

CCI Position: Support

Colorado's forest health is in dire straights and, although much has been done on the local, state and federal level to address the issue, the most important solution, funding, continues to be difficult to acquire. SB-18 came out of this summer's interim committee on wildfire issues and originally asked the state for \$10 million a year to fund forest hazardous fuel mitigation projects. These projects are the most effective solution to the problems involving forest health. Fire breaks around communities, thinning dead tree stands and reducing fuel loads in the red zone have been proven to save lives and property in other states that face similar fire danger.

In committee, SB-18's fiscal request was reduced to \$180,000. Although this request is a significant reduction in funds, to one of the state's most pressing issues, it is still important funding which can be immediately used to reduce wildfire risk in the counties.

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

Taxation & Finance (TF)

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 because 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, thus has TIF utilized to subsidize the development of these lands. The bill also allows local government entities, that utilize 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.

The House Local Government Committee heard opposition and some supporting testimony last Thursday and will take the bill up again Tuesday, February 10 at 1:30 p.m. It is hoped that the

weight of the testimony and demonstration of expansive TIF abuse in recent years will lead to the committee voting in support of this modest but necessary change to statutes that are clearly outmoded. Importantly, neither any of the impacted local governments nor the state itself has a real say-so on such use and abuse; rather, property tax diversions at the hand of municipalities have reached over \$100 million in 2007 and will continue to grow. Of that amount, the state will backfill over half of that amount, over \$50 million via the school backfill mechanism, while local governments, including school districts statewide, struggle to balance their budgets with some simply cutting their budgets.

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

Transportation & Telecommunications (TT)

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

CCI Position: Support

SB 78 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 consequently turning 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. CCI supports the approach of cooperation among governments to provide the best quality and safety of the highway system.

The Senate Transportation Committee heard and passed out the bill last Tuesday. In committee there was question from some members as to the parameters of the funds and utilization thereof, mainly, that payment funds from CDOT to local governments would be used for transportation purposes only. CCI, CML and CDOT, all supporting organizations, will work with the sponsor to clarify the intent and uses of the program and funds. It is hoped this cooperative program will continue to remain viable and in high demand to the benefit of the entire statewide transportation system.

SB09-142 Annexation of Rights-of-Way (Tochtrop)

CCI Position: Support

This is a CCI priority bill dealing with the issue of annexing road rights-of-way where a municipal annexation abuts such a right-of-way. Prior law allowed a partial annexation to take place, leading to some roadways with dual jurisdiction and maintenance responsibilities, sometimes on opposite sides of the same stretch of road. Current law is "all or nothing", meaning a municipality, at their sole discretion, can annex such a roadway or not, but if annexed they must then take the entire width of the right-of-way. Such statutory construction leads to confusion of the travelling public, administrative issues between cities and counties. CCI believes statues should be modified to better reflect realities on the ground.

The Senate Local Government Committee tabled the bill last week and will take the bill up Tuesday, February 10. After productive discussions with the sponsor and Colorado Municipal League, it is hoped that compromise language may be amended into the bill giving greater clarity to the annexation process, when such annexation should reasonably be taking place, and utilizing parameters oriented toward a municipalities' anticipated future growth.

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