

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

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800 Grant St., Suite 500
Denver, CO 80203
Ph) 303.861.4076
Fax) 303.861.2818
www.ccionline.org

County PILT and SRS Full Funding Realized – Maybe

As many of you are aware, last fall Congress reauthorized and fully funded the Secure Rural Schools and Community Self-Determination Act (SRSCSDA), as well as 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. After 32 years of lobbying for full PILT funding by NACo and other states' county associations, it appears counties may now receive the promised funding to manage federal lands in their county borders.

While counties were understandably enthusiastic about full funding of PILT, there is interplay between the two funding mechanisms that affects the amounts actually paid to and available for expenditure by counties. PILT was designed by Congress to compensate local governments for lost property tax revenue that results from federal land ownership. Separately, the SRSCSDA was passed by Congress in 2000 to provide forest counties an alternative to the prior vagaries of forest payments through the U.S. Department of Agriculture. For certain counties, payments of SRSCSDA funds received and expended by the county reduce the county's PILT payment in the next fiscal year; however, SRSCSDA payments to those counties that are then transferred to schools are not deducted from PILT for the subsequent year.

This makes it appear that some counties can transfer huge amounts of SRSCSDA funds to schools and the worst harm they would suffer is the 18 month lag time between one year's SRSCSDA payment and the next year's PILT payment. Unfortunately, as with so many federal programs, even if a county's PILT entitlement is large enough to offset a major SRSCSDA transfer, there are many strings attached to both the SRSCSDA and PILT formulas that keep it from being such a clean exchange.

In the PILT arena, there are two possible entitlement calculations - one of which considers the SRSCSDA transfers and one of which does not. In counties where the school transfer is NOT considered (as determined by the BLM), any increase in the amount of the transfer causes an actual loss of anticipated revenue to the county. In counties where the school transfer IS considered, the amount of the transfer has to be less than or equal to the PILT entitlement or the overage constitutes an actual revenue loss to the county. At a minimum, any amount transferred will not come back to the county (in the form of PILT) until the next fiscal year.

In the SRSCSDA arena, there are also two alternative calculations that have significant impacts on both the amount of the payment and on the purposes for which it may be used. Late last year, after passage of the stimulus bill, counties were required to elect either a "25% payment" or a share of the state payment ("full payment amount"). The full payment amount totals were higher for most counties but also came with strings attached, depending on the funding level, including withholding by the federal government of specified amounts for expenditure through Resource Advisory Councils and designation of amounts that must be spent on fire mitigation or other activities relative to federally-owned land.

These variations cause almost every county's situation to be different with respect to how much can be transferred to school districts without harming the county's anticipated fiscal situation. Further, because counties have already made the election of which SRSCSDA payment method to use, changing the rules of the game now is patently unfair. And yet, that is exactly what HB 09-1250 would do. 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%. This increase would cause some counties to receive less in SRSCSDA funds, with no corresponding increase in their PILT allocation. In some counties, almost any increase in the required transfer to schools will work a reduction in funding. In all the remaining counties, HB 09-1250 causes a delay of up to 18 months in receipt of anticipated federal funding.

CCI has encouraged and will continue to encourage counties to transfer the maximum amount they can to schools consistent with not harming county resources or budgets and maximizing the amount of federal funds coming to our state. However, simply adopting a one-size-fits-all rule disregards county needs entirely.

General Government (GG)

SB09-149, County Home Rule Charter Commissions (Boyd, Kerr J.)

CCI Position: Support

Counties have a statutory option to adopt a home rule charter. This allows the county to adopt changes to its administrative structure. The option may make sense for counties with large populations in unincorporated areas of the county. Under current law there must be a special election proposal held to determine whether a home rule charter commission should be established and who should be on the commission who will then come up with the official home rule charter. This is an expensive and time consuming process. This bill would allow the board of county commissioners to appoint this charter commission. The public has multiple opportunities to influence the process and participate in public meetings and give input on the proposed charter during the entire process.

This bill continues to protect the process of becoming a home rule county while streamlining some of the bureaucratic hurdles. Additionally, language has been added in to ensure diversity, political and otherwise, on the charter commission.

SB09-95, Construction Prompt Pay (Tapia, Riesberg)

CCI Position: Oppose

This is a bill returning to the General Assembly once again this year. Proponents argue that private and public entities arbitrarily withhold payment on construction projects, thereby harming the construction business.

The bill is very complex with the same language that was brought forward last year (HB08-1306). SB09-95 also added in amendments adopted from last year's committee hearing. This 37-page bill adds language to statute restricting the flexibility of public entities' dealings with contractors on public works projects including unduly restrictive payment timelines and penalty interest requirements, and certifications of ability to pay that do not make sense as applied to public entities. Many of the areas listed in this bill are already covered in existing statute. CCI 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 37-page bill.

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

Health & Human Services (HHS)

HB09-1007, Concerning Improving Child Protection Efforts by Adding Domestic Violence Experts to Interagency Oversight Groups in the Collaborative Management Program (Frangas, Newell)

CCI Position: Support

In its simplest form, HB09-1007 requires a representative from the field of domestic violence to be a part of a local interagency oversight group in a collaborative management program. There are eighteen or more counties who are involved in the collaborative management program, which is a program of multi-agency services provided to children and families. These counties have found this collaborative approach to child welfare to be an improvement in the delivery of services and the holistic care of children and families. By permitting local county teams to include a domestic violence expert, when possible, will only improve the outcomes of children for whom domestic violence is a factor in their situation.

SB09-55, Concerning the Family Resource Center Program (Isgar, Judd)

CCI Position: Support

SB09-55 expands the services that may be provided by a family resource center, to include parenting education. Many of the 24 family resource centers in Colorado have been expanding their services over recent years to better serve the needs of families, from the provision of child care to the needs of single parents with little community support. The bill also permits these centers to legally apply for the statewide strategic use fund, in CDHS. Finally, the bill repeals the current sunset date of the resource center statutes. These centers have turned into real support centers for families and potentially prevent many of these parents and families from more dire straits.

CCI supports these programs and appreciates the role they play in creating a community for families in need in many parts of the state.

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

Land Use & Natural Resources (LUNR)

SB09-216, Concerning Increases in the Fees Paid to the Division of Water Resources in the Department of Natural Resources, and, in Connection Therewith, Modifying Appropriations Made to the Division of Water Resources in the Fiscal Year 2008-09 Long Appropriations Bill (Tapia, Pommer)

CCI Position: Support with Amendment

SB09-216 is one of the large package of bills that reduce or repeal programs to save funds for the current state fiscal year. In this case the bill increases a series of fees and cash fund revenues, estimated at \$831,243 for FY 2008-09 and \$2,493,730 for both FY 2009-10 and FY 2010-11. The fees are directed to the Groundwater Management Cash Fund (97%) and the Well Inspection Cash Fund (3%). The fee increases are for well permitting applications, substitute water supply plan applications, and dam design review. Generally, applications for new well permits will increase from \$100 to \$665 and for substitute water supply plans from \$300 to \$2,000. Dam design review fees, which are currently capped at \$3,000, will be calculated on a sliding fee schedule based on the size of the project. There has been considerable concern and discussion about this bill, given that legislation is also working its way through the legislature that will require a number of well owners in the Central Colorado Water Conservancy District to adopt substitute water supply plans in order to meet the requirements of augmentation. At an increase from \$300 to \$2,000 per plan, some of these well owners could be priced out of the system. In a fairly remarkable move, the House leadership agreed to refer this bill to the House Agriculture, Livestock and Natural Resources committee, for hearing and review.

CCI has voted to support this legislation if it is amended to include a three-year repeal. At this time the bill is not yet calendared for hearing in the House Agriculture committee.

SB09-229. Concerning a Clarification to the Requirement that the Colorado Oil and Gas Conservation Commission Obtain Surface Owner Consent Prior to Imposing Conditions for Wildlife Resource Protection (Isgar, Curry)

CCI Position: Pending

SB09-229 basically asserts that the landowner, or an authorized tenant, has the right to address the impact of oil and gas operations on wildlife within the property of the landowner.

The bill also provides that it is not the intent of the legislature to create or enlarge the Department of Wildlife's (DOW) jurisdiction to regulate the use of private lands. The bill also includes the conduct of wildlife surveys in the clarification of limitations on DOW. The bill asserts that DOW's role is purely consultative for the purposes of this new section in the law, the Landowner Stewardship provision. In instances in which a landowner or the tenant refuses consent to DOW, then the Commission shall impose "commensurate off-site wildlife resource protection measures".

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

Taxation & Finance (TF)

HB09-1265, Tax Abatement Interest to Nonprofits (Liston, King)

CCI Position: Support

HB09-1265 would provide counties, as well as all property tax entities, a period of time of two years that a nonprofit entity may be awarded a refund of interest (at 12%), whereas current law provides no such limitation. One county experienced a significant refund situation last year which resulted in a large fiscal impact to the county, as well as to the local school district and other entities. HB09-

1265 would help to prevent such situations in the future and promote more equitable statutory guidelines.

SB09-081, Telephone machinery Sales Tax Exemption (Shaffer B., Rice)
CCI Position: Monitor

This bill would allow a phased-in exemption from sales and use tax for purchases of telephonic machinery and machine tools. Counties raised concerns that the exemption could apply automatically to local jurisdictions where such an exemption had previously been made. CCI has worked with the sponsor and proponents to ensure that the bill includes language to allow, but not require, counties that have made similar exemptions to adopt the new state-oriented exemption standards and thus leave the option to an individual county to grant such an exemption should they opt to do so.

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

Transportation & Telecommunications (TT)

HB09-1284, Corridor Capacity Strategic Planning to Foster Transportation Efficiency (Levy)
CCI Position: Monitor

HB09-1284 looks specifically at corridor planning within Metropolitan Planning Organizations (MPOs) and while largely permissive in nature, the bill does have specific requirements of local governments. HB09-1284 states that CDOT, an MPO, and its member local governments may develop a corridor capacity strategic plan, and in doing so, gives specific factors to consider such as access management, local street improvements, transit investments, TDM programs, land use considerations, bike/ped routes, etc. The aim of the bill is to account for congestion management in specific "congested corridors" within MPOs and encourages CDOT to work with MPOs in such planning to account for system impacts. However, the bill further states that as a condition of issuance of an access permit, if such a plan is either not adopted or adopted and not implemented, the bill authorizes CDOT to either require improvements to the state transportation system or require local governments to collect impact fees on behalf of CDOT to account for impact mitigation.

The bill will likely have clarifying and technical amendments made to the bill but it is unclear how those may change the scope, processes or requirements. It is not the intent of the sponsor to supersede existing local government impact fee authority, rather, the intent is to encourage cooperative planning in congested corridors, then utilize impact fees as a last resort in treating the state transportation system as a whole.

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