

# Legislative Report

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## 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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## Moving Colorado Elections Forward in an Off Year

At this time last year, counties were bracing for the historic 2008 primary and general elections. County election equipment had been decertified. SCORE, the statewide voter registration database mandated by the 2002 Help America Vote Act, was still being developed and had yet to be field tested. County Clerks were facing tight deadlines and wondered if they could prepare in time. Limited public funding and potential lawsuits threatened. No one knew how the upcoming November election would be carried out, by mail ballot, paper ballot, electronic voting equipment or some combination of these options. Many were predicting that Colorado would be the next Florida.

Yet this year is relatively quiet on the election front. The off-year in the election cycle gives policy makers an opportunity to take stock of Colorado's existing elections laws and set the course for the state's future elections. Last week's report from the Election Reform Commission, an eleven member commission charged with reviewing, researching and recommending changes to the state's election laws, will likely contribute to that conversation.

While the Commission detailed twenty recommendations in their report, one of the most important recommendations pertains to voting system certification. Specifically, the Commission recommended extending emergency certifications provided for in HB08-1155 through the 2013 election cycle. This is a very important recommendation. Without this extension all counties in Colorado would face significant costs in maintaining, upgrading, retrofitting and replacing the equipment. More importantly the extension allows counties to plan for paper based elections for the future.

The Commission recommended that counties utilize a paper ballot and optical scan-based electronic voting systems, beginning in 2014. One of the Commission's many tasks was to examine ways to increase voter confidence in the election process. Confidence in the process increases when transparency is a priority and paper ballots allow for that transparency while also increasing efficiency and accountability.

A first step toward 'going paper' is HB09-1015. Rep. Murray's bill would allow counties to conduct all primary elections by mail. It also allows counties to cancel primaries if there is only one candidate running for the major political parties. This bill helps codify the beginnings of a paper based election. Details relevant to future election bills will be covered in HB09-1015 allowing Colorado to move forward toward a stronger, dependable and consistent election process.

CCI looks forward to continuing conversations with the Governor, County Clerks and voting advocates as policy makers continue to create a Colorado model built on best practices, stakeholder input and expert advice.

### **Agriculture, Wildlife & Rural Affairs (AWRA)**

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#### **SB09-235, Wildlife Habitat Stamps and Passports (Gibbs, Isgar, Merrifield) CCI Position: Pending**

This bill continues and expands the existing habitat stamp program in the Division of Wildlife (DOW). There are two stamps currently, each \$5.00 and rising to \$10 in the bill. The money pays to protect Colorado wildlife habitat. Hunters and fishermen pay for the habitat stamps when purchasing a license. Hikers and visitors can buy the stamp but few know about the program and non-sportsman sales represent around 3% of total sales. SB09-235 allows the DOW to use money to market the habitat stamp to non-sportsmen, something they could not do before.

The bill also states that the DOW may not acquire a third party conservation easement using habitat stamp funding unless the organization asking for the easement contributes 15% or the same amount is raised outside the DOW. Conservation easements and access points dominated testimony in committee. The opposition did not testify against the bill as much as they testified the bill did not go far enough. Sportsmen argued that since they generate the majority of the habitat stamp revenue there should be more access to DOW lands or there should be other land management alternatives offered.

The bill passed out of committee on a party line vote 5-2 and was sent to appropriations.

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

### **General Government (GG)**

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#### **HB09-1140, Clarify Initiative and Referendum Process (Court, White) CCI Position: Support**

Colorado's process to put initiated and referred measures onto the election ballot allows constitutional amendments to receive equal weight as initiated or statutory measures. It is as easy to place a constitutional change on the ballot as it is to place a statutory change.

Proponents of this process argue that the voters should be allowed to amend the constitution, especially when the initiated measure is of high importance. The opponents say the process needs to be protected, however, there must be a higher bar set for constitutional measures since unintended consequences may occur.

This bill tries to clarify a variety of procedures dealing with placing measures on the ballot. First, the bill requires additional information on petitions, on the ballot title and in the Blue Book that specifies whether the issue is a constitutional or statutory change. It also extends the timeframe for withdrawing initiative petitions from the current 33 days to 60 days. This will allow the Secretary of State, state and local governments from wasting time and money certifying withdrawn initiatives and printing ballots with initiatives that had been withdrawn.

CCI supports the changes proposed in this bill. Colorado's constitution should remain a vehicle expressing the will of the people, yet should not be the first option for proposed initiatives.

### **HB09-1015, Conduct of Primary Elections (Murray, Hodge)**

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

As Coloradoans continue to think about how the state and counties may better manage elections in the state, HB09-1015 is a step in the right direction. This bill would do two things, one, allow for any primary election in Colorado to be all mail in ballot, and two, if there is only one candidate for both major political parties in the primary, the county may choose to certify the candidates and cancel the primary. Both of these steps will bring Colorado closer to a more efficient and more transparent election process.

Since the beginning of the session, HB09-1015 has been a contentious bill. Many conversations with stakeholders have taken place and with the help of the Governor's office and the Secretary of State, proponents and opponents of this bill have worked out a compromise. Details concerning how many drop off locations, how many 'service centers' will be available, what the mail ballot timelines will be and what to do about write in candidates and minor political party primaries have been addressed.

The bill will be laid over one more week while the compromise language is drafted and added into the existing amendment. CCI would like to thank Rep. Murray for her fortitude finding solutions for the bill and CCI would also like to thank the County Clerks and the Governor's office for continuing to work with counties to find better ways to administer elections in the state of Colorado.

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

## **Health & Human Services (HHS)**

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### **HB09-1293, Medicaid Hospital Provider Fee (Riesberg, Keller)**

#### **CCI Position: Pending**

HB09-1293 is the latest iteration of a plan that the state has been working on for several years. Legislation has been adopted in previous years that would permit public hospitals to pay a fee into the State Medicaid account, which in turn would match additional Federal Medicaid funds at a 50/50 rate. This particular legislation goes beyond the structure of matching additional Medicaid dollars to create a significant expansion in the Medicaid program. The bills in the past

were essentially designed to provide greater reimbursement and provider rates for the care providers and hospitals in the state.

This legislation specifies that the fee shall:

- Supplement and not supplant existing general fund appropriations to hospital providers unless payments to other Medicaid providers are reduced;
- Be used for increasing reimbursements to hospitals under Medicaid and the Colorado indigent care program, expanding eligibility for Medicaid and the children's basic health plan (CHP+) and paying the costs of the department in administering the fee;
- Be returned if the federal government does not approve the fee; and
- Cease if the federal government no longer provides matching federal funds for the fee.

The uses of the funds, if the federal government agrees to the plan, would include expanding eligibility for Medicaid to:

- Parents of children eligible for medical assistance or CHP+ to up to 100% of the federal poverty level;
- Disabled individuals participating in a Medicaid buy-in program to up to 400% of the federal poverty level; and
- Childless adults or adults without a dependent child in the home to up to 100% of the federal poverty level subject to federal authorization.
- Provides for continuous eligibility in Medicaid for children for 12 months.
- Expands eligibility for children and pregnant women under CHP+ to up to 250% of the federal poverty level.

Counties are monitoring this legislation, but have concerns about the clear intent to expand eligibility without a compensatory increase to counties for the eligibility screening and application functions necessary to carry out the bill's intent.

### **SB09-223, Retail Food Establishment Inspection (Boyd, Kerr, A.)**

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

SB09-223 insures the uniform statewide administration of food safety in Colorado, by amending the current law regarding the responsibilities of the state and county/district health departments. The bill requires administration, implementation, interpretation and enforcement of food safety laws by the state, county or district public health agencies. This bill would increase the fees for retail food establishments. Included are more uniform descriptions of duties. The bill increases the various current fee levels to bring the fees in line with increases in costs, since the last statutory fee increase. Finally, the bill creates a grievance process for food establishment licensees who believe that a county or district public health agency is taking action outside of its authority. This process includes the participation of the State in ascertaining whether a grievance is founded, and the remedies.

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

## Land Use & Natural Resources (LUNR)

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### **HB09-1282, Electronic Device Recycling Task Force (Fischer, Schwartz)**

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

HB09-1282 seeks to assess the best practices and management goals for protecting the environment from the often toxic elements in electronic devices. The bill would cover everything from cell phones to computer monitors and other devices that contain environmentally dangerous elements. The bill creates a task force within the department of public health and environment to make recommendations regarding the implementation of an electronic device recycling program. The bill goes into detail in specifying the composition, appointing authorities, objective and public meeting requirements for the task force. As introduced, the bill requires the task force to submit a report to the General Assembly by December 15, 2009. At this time the proponents have discussed the possibility of increasing the local government representation on the task force, something CCI would welcome. CCI has considerable interest in the legislation and is discussing the provisions.

### **SB09-51, Concerning Measures to Facilitate the Financing of Energy Efficient Structures (Levy, Carroll, M.)**

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

SB09-51 increases the amount that the state treasurer may invest as part of the Colorado Clean Energy Finance Program. The amount is increased from \$30 million to \$40 million of state moneys in bonds or notes issued by participating public or private lenders for the purpose of funding clean energy loans from FY 2008-09 through FY 2010-11. The cap on loans guaranteed by the state treasurer is increased from \$10 million to \$15 million during FY 2008-09, and to no more than \$25 million during the two-year period of FY 2008-09 through FY 2009-10.

The bill provides for the facilitation of clean energy loans for large-scale commercial, industrial and institutional installations of solar electric generation facilities, which hold great potential for clean energy development, but have certain limitations concerning economic feasibility. A participating public or private lender may finance one or more clean energy improvements to commercial, industrial or government-owned property, subject to certain conditions. The bill also requires landlords to allow energy audits of rental properties, if requested by a tenant, at the tenant's expense. Finally, the bill states that the supply of electricity or heat to a consumer from solar generating equipment not owned by the consumer, but which is located on the consumer's property, shall not be subject to regulation as a public utility by the Public Utilities Commission.

The amendments adopted by the Senate Local Government and Energy Committee on February 10, 2009, remove the fiscal impact to the Public Utilities Commission. At this point the bill would receive funding from gifts, grants and donations.

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

## Public Lands (PL)

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### **HB09-1162, Intergovernmental Cooperation for Mitigating Wildfires (Gerou, Kopp)** **CCI Position: Oppose**

This bill seeks to require local government entities that own land in other counties to enter into an intergovernmental agreement (IGA) to perform mitigation on the lands inside the territorial boundaries of the other county. The IGA would have specific requirements included. Existing agreements and plans would be excluded from new requirements.

County commissioners expressed concern that the language in this bill may apply to counties outside the scope of this bill. Sen. Kopp amended the bill in committee to clarify that the new IGA requirements would apply only for lands located outside the territorial boundaries of the local government, excluding school districts, other special districts or other entities that may have been included without the clarifying amendment.

With the amended language CCI will again review the bill at the Public Lands steering committee on March 20<sup>th</sup>. We thank the sponsors of the bill for their willingness to listen and address CCI's concerns.

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

## Taxation & Finance (TF)

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### **SB09-177, New Solar Facility Property Tax Valuation (Schwartz, Vigil)** **CCI Position: Pending**

SB09-177 would modify the property tax structure for solar facilities exceeding two KW in size, mirroring language dealing with wind facilities added into law in 2006. The bill would permit the income approach to valuation of such facilities, effectively giving a reduced rate of tax in the initial years, then accelerating the property tax in out years arguably getting to an equal tax position within twenty years. Proponents of the bill suggest that the long term revenue stream will be greater than that which would otherwise be the case in absence of the bill, while simultaneously allowing for high startup costs to be better accounted for by the producers.

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

## Tourism, Resorts & Economic Development (TRED)

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

HB09-1109 extends the applicability of the foreclosure protection law to owners who are not yet in foreclosure but who are in imminent jeopardy of being in foreclosure because of delinquency or default. As noted in previously in this publication, the bill was amended by the House to require that owners be at least 30 days delinquent in order to avail themselves of the foreclosure protection act. As amended by the Senate, this language is clarified to state that the residence must be encumbered by a residential mortgage loan that is at least 30 days delinquent or in default. In addition, the Senate made the bill applicable to residential properties that are delinquent or in default on or after July 1, 2009.

The House concurred with the Senate's amendments and the bill is now headed to the Governor for his signature.

### **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, has passed the House and is scheduled for hearing by the Senate Local Government Committee on Thursday, March 12.

As introduced, HB09-1220 simply outlawed HOA covenants or restrictions on an owner's right to set the price or establish occupancy requirements. It was intended to prevent HOA's from adopting restrictions that would prevent a housing authority from offering properties it owns as workforce housing. It was amended substantially by the House Local Government Committee 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).

The amended version of the bill will be reviewed by CCI's steering committee on March 13. If your county is interested in the bill as amended, now is the time to let your senator know.

*Questions or Comments? Contact Chip Taylor at 303.861.4076 x 231 or [jtaylor@ccionline.org](mailto:jtaylor@ccionline.org).*

## **Transportation & Telecommunications (TT)**

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### **HB09-1284, Corridor Capacity Strategic Planning to Foster Transportation Efficiency (Levy)**

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

As noted in last week's legislative report, 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. As anticipated, the bill was amended in the House Transportation Committee to remove the power of CDOT to require counties to impose impact fees on CDOT's behalf. In addition, the amended bill states that CDOT will be a "referral agency" for local changes to zoning maps of any congested corridors under consideration. CCI will review the amended bill for any further issues.

### **SB09-108 Transportation System Planning and Funding (Gibbs, Rice)**

#### **CCI Position: Support, Signed into Law**

SB09-108, also known as FASTER, was signed into law by Governor Ritter last week. As supporters of the bill, CCI is grateful to the commitment towards local transportation infrastructure incorporated into the bill. It has been almost 20 years since the state legislature has included a local share provision in a transportation funding package. Commissioners are thrilled to see that the Sixty-Seventh General Assembly recognizes that a safe and reliable state transportation system does not begin and end with the state highway system.

In the final version, the bill does many things, but in part:

- Adds a portion of new \$150M fee revenue for counties, utilizing the existing HUTF formula for distribution;
- Utilizes \$5M of the new revenue to fund transit projects for local governments;
- Phases in the newly created bridge safety surcharge over the coming three years;
- Authorizes the newly created tolling enterprise to toll existing capacity only with the unanimous agreement of impacted communities. Revenue from tolls may be used for transit-related projects;
- Allows RTD to go to the ballot without prior legislative approval.

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

## Updates

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### **Court Security Cash Fund Update**

An additional \$500,000.00 will be transferred, in FY 2010, from the Court Security Cash Fund to the State's general fund. This amount is in addition to the \$1,500,000.00 previously transferred. Despite these transfers the vital components of our program remain intact, those being:

- All grant money awarded for equipment in the 2009 grant cycle;
- All grant money already awarded for personnel funded for the life of the program (until 2017);
- At least \$1,000,000.00 available for new grants this summer;
- All grant money committed for the Court Security Officer Training Program funded for the life of the program; and
- June's Court Security Conference.

### **There is something you can do to lessen the possibility of future transfers from this fund.**

Every effort should be made to order, purchase and request reimbursement for all court security equipment awarded in 2009. The sooner the better. By doing this, it will show that the money is being put to the use for which it was intended.

Leadership for the County Sheriff's of Colorado and Colorado Counties Inc. will be sending a similar request to their members.