

# Legislative Report

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## CCI Meeting Reminder

All steering committee meetings are held at CCI.

### Friday, April 17

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, April 24

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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## CDPHE Releases Draft Public Health Director Qualification Rule

Last year, SB08-194 (the Public Health Reorganization Act) passed and was signed into law by the Governor. Since its effective date, the Department of Public Health and Environment has been working diligently to implement the Act's provisions. This week's lead article pertains to the rule-making activity required in SB08-194 which mandates the Department of Public Health and Environment to establish qualifications for County and District Public Health Directors.

When SB08-194 was passed, many commissioners expressed concerns that the qualifications for Public Health Directors would result in an unfunded mandate. With this in mind, counties as well as cities and counties should review these proposed qualifications to determine whether or not their communities can meet them and, if not, if the waiver process is sufficient.

Counties that provided "nursing services" prior to the passage of SB08-194 are likely to be most impacted by this rule. As drafted, a non-physician public health director is specifically required to have a master's degree, preferably in a public health discipline. Additionally, a non-physician public health director must have five years within the past ten years of successful and responsible administrative experience in public health or a closely related field, including at least two years experience in supervising public health professionals.

If your county's public health director cannot meet these qualifications, your county or district board of health can seek a waiver from the State Board of Health. While the rule lists a handful of considerations upon which the State Board of Health can deliberate,

when actually granting or denying a waiver request, it should be noted that the Board has full discretion in making this decision.

The State Board of Health will consider adopting this rule at their May 20<sup>th</sup> meeting. Copies of the rule are now being circulated for public comment and can be found at the following website: <http://www.cdphe.state.co.us/op/bh/upcomingnoticesproposedrules.html>.

Once there, click on the link entitled: "Amendments to 6 CCR 1012-1, Rules pertaining to the Job Description for Public Health Administrator I and II, along with statement of basis and purpose (new CCR # and title will be 6 CCR 1014-6, Job Description and Minimum Qualifications for Public Health Director and Minimum Qualifications for Medical Officer)."

La Plata County Commissioner Joelle Riddle and Kit Carson County Social Services Director Kindra Mulch both serve on the Board of Health and have indicated their interest in any concerns or comments counties may have. This will undoubtedly be the subject of discussion at CCI's next Health and Human Services Steering Committee as well. If you would like to submit your own comments on the rules, the deadline for submission to the Board of Health is **Wednesday, May 6, 2009**. Please contact Gini Pingenot ([gpingenot@ccionline.org](mailto:gpingenot@ccionline.org) or 303.861.4076x226) if you have any questions about the submission process.

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

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

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

SB09-180 is a contingent unfunded mandate on local governments. The bill calls for collective bargaining processes to be implemented in local law enforcement agencies whenever an employee organization is recognized or elected for collective bargaining. To implement this bill, Denver metro area sheriff departments would have to hire at least two full time employees. The fiscal impacts on rural county sheriff departments could also be significant. The bill includes provisions for dues, fees and assessments to be deducted from employee checks and remitted to the employee organization.

Additionally, SB09-180 interferes and supersedes home rule charters for local governments by forcing a mandated process on local law enforcement agencies. CCI, County Sheriffs, many Colorado Police Chiefs and the Colorado Municipal League all strongly oppose this bill.

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

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

This bill would have required the executive branch to develop an annual report that detailed any unfunded mandates that the General Assembly passed during the legislative session. It originally asked the State Auditor to perform the work and then the Local government committee amended in the Department of Local Affairs instead.

Unfortunately, the fiscal note that DoLA attached to the bill could not be reduced, although the actual development of the report could have been in coordination with local government associations that track this data already. The bill died in Appropriations last week.

CCI is very grateful to Rep. Vigil for his work on this bill, while helping to educate fellow legislators about the impacts of their decisions under the dome on local governments.

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

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

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#### **SB09-267, Concerning the Percentage of Costs that a County Department of Social Services Pays for a Child who is Placed in a Residential Child Care Facility by the County Department and Making an Appropriation in Connection Therewith (Tapia, Ferrandino)**

**CCI Position: Pending**

Budget Package Bill - Under current law, counties are required to pay 10 percent of the cost of services for children placed in residential child care facilities in FY 2009-10. Under SB08-216 the county contribution is scheduled to increase to 20 percent on July 1, 2010.

As a result of the budget shortfalls in the 09-10 state fiscal year, the Department of Human Services discussed moving forward the match increase date with counties for this winter. County directors agreed that they would make the effort to cover the additional match costs at this earlier date. This bill moves the date for the higher contribution rate forward by six months. With the adoption of this JBC bill the effective date will move up to January 1, 2010.

While every level of government is struggling with the economic difficulties of the current downturn, counties appreciate the willingness of the state and the JBC to work with them on the timing of these changes and appreciate the state's ongoing efforts to support other elements of county social services needs.

#### **SB09-261, Concerning the Use of Moneys in the Supplemental Old Age Pension Health and Medical Care Fund to Pay for Services Received by Certain Persons in the State Medicaid Program and Making an Appropriation Therefore (Tapia, Ferrandino)**

**CCI Position: Pending**

Budget Package Bill - The Old Age Pension (OAP) Medical program provides limited medical care benefits with state-only funds. An unanticipated fund balance accrued to the Supplemental Old Age Pension Fund beginning in FY 2007-08 because of a lower caseload than originally forecast. Between July 2007 and January 2008, the department identified an estimated 300 legal immigrant clients receiving medical care through the OAP Medical program, who moved to the Medicaid program. Under federal law, certain legal immigrants are eligible for Medicaid after living in the United States for five years. As clients moved from the OAP Medical program to Medicaid, costs decreased in the OAP Medical program and increased in Medicaid. For FY 2008-09 and FY 2009-10, the bill uses \$9.0 million of the Supplemental OAP fund balance to cover Medicaid costs associated with clients age 65 and older who would have otherwise been eligible for the OAP Medical program.

It does not appear that benefits will be reduced to eligible Colorado residents, thus the transfer of funds is needed to balance the shortfall in the 09-10 budget.

**SB09-268, Concerning Clarifying the Appointment of State-Paid Professionals in Cases Involving Children (Tapia, Pommer)**

**CCI Position: Pending**

Budget Package Bill - This bill is part of the Joint Budget Committee's budget balancing package. It makes a number of clarifications regarding the appointment of professionals in court cases involving children. The bill:

- Requires the Chief Justice of the Colorado Supreme Court to implement policies and procedures relating to payment by the state of costs relating to the appointment of a child's legal representative (CLR) or a child and family investigator (CFI) when the parties are indigent,
- Precludes the court from bearing the cost of a CLR or a CFI in a domestic relations proceeding unless both parties in the case are found to be indigent,
- Allows the court to appoint a guardian ad litem (GAL) in truancy proceedings only in cases where the appointment is found to be necessary due to exceptional and extraordinary circumstances,
- Requires the court to make specific findings that the appointment of a GAL in certain delinquency cases is necessary to serve the child's best interests and
- Clarifies when the appointment of a GAL terminates in a delinquency proceeding.

Of interest to counties are the changes in Title 19, concerning the appointment of a Guardian Ad Litem (GAL) in juvenile cases of delinquent behavior, related to the last two bullet issues above. We are unsure of the real cost savings, not to mention the impact to children in the delinquency system, that will result from requiring specific findings concerning an appointment to be included in the court's order (existing law requires a general finding of the child's best interest) and allowing early termination of a GAL's representation of such children.

**SB09-271, Concerning the Use of Tobacco Revenues Generated Under Section 21 of Article X of the State Constitution in a State Fiscal Emergency and Making an Appropriation Therefore (Tapia, Ferrandino)**

**CCI Position: Pending**

Budget Package Bill - This legislation requires a declaration of a state fiscal emergency, in SJR09-35, which must pass the legislature by a 2/3<sup>rd</sup>s vote. Assuming SJR09-35 passes, the legislature can expand the purposes for use of tobacco tax revenue (Amendment 35 moneys) in the Tobacco Education Programs Fund and the Prevention, Early Detection, and Treatment Fund. Moneys in these funds may be used for any health-related purpose and to serve persons enrolled in both the Children's Basic Health Plan and Medicaid. SB09-271 makes appropriation adjustments to these two funds to meet the Department of Public Health and Environment's grant-making expectations.

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

## Public Lands (PL)

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### **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 the capital for start up loans for small businesses seeking to help mitigate the extraordinary amounts of hazardous fuels in Colorado forests.

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.

Funding for these programs will come from Tier II severance tax funding from the Department of Natural Resources (DNR). As amended in Senate Appropriations, DNR will transfer \$1.95 million, to be divided up among the multiple programs established in the bill. Another forest health bill, SB09-018 was postponed indefinitely because the funding in HB09-1199 covered the scope of SB09-018.

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

## Taxation & Finance (TF)

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### **HB09-1327, Modifications to the Urban Renewal Law and Tax Increment Financing Impacts (Hullinghorst, Tochtrop)**

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

CCI supports HB09-1327 as long-overdue reform to the current one-sided urban renewal statutes. CCI supports urban renewal authorities (URA) and tax increment financing (TIF) when used appropriately and as the original statutes intended, to remedy slum and blight in urban centers that are otherwise impossible to develop. To be sure, there have been good and appropriate uses of TIF, but over time the law has been abused to subsidize the development of otherwise developable lands, including agricultural and open lands. The use of TIF by a URA is a one-sided event: local property-tax entities have no real say or seat at the table when municipalities are diverting the essential property tax revenues away from them for up to 25 or more years. These are revenues that the entities use to provide essential services, some mandated by federal or state law, and available to all residents of the entities. Importantly, school district losses are backfilled by the state, again, without any state voice or oversight. This backfill amounted to over \$55M last year alone. The cumulative effects of this automatic backfill for the state are unsustainable.

CCI supports URA and TIF reform and HB09-1327 is a method to encourage local discussions and agreements to take place. Specifically, HB09-1327 would:

- Require municipalities to consider the impacts of an urban renewal plan on all property tax entities whose mill levies provide the funding for the city's project,

- Requires municipalities that want to take more than half of the property tax revenue levied by all local governments for more than five years to enter into an intergovernmental agreement with the affected entity in advance, and
- Repeals the existing arbitration provisions which unduly stifled progress on projects without providing real benefit to other property taxing entities.

The bill was passed out of House Local Government and is on the House floor. CCI met with opponents and the sponsors last week to discuss compromise amendments which do not seem to be forthcoming. We urge you to contact your Representatives to encourage a "yes" vote on HB09-1327.

**SB09-85, Phase out Business Personal Property Tax (Scheffel, Lambert, Priola)**

**CCI Position: Oppose**

As introduced, SB09-85 would have exempted a percentage of business personal property, excluding state-assessed property, from property taxation by way of increasing the amount of the exemption every two years until all business personal property is exempt within a 20 year period. Last Friday, the Senate Appropriations Committee took up the bill. While the committee passed an amendment that would have added state-assessed properties to the bill (thus expanding the scope of lost property revenue by over 40% statewide), phased the bill in over 40 years, delayed the implementation to 2011, and also required a study of impacts in 2013, the bill stalled on a tie vote. It has been calendared for further discussion by the Appropriations Committee this Wednesday.

**SB09-228, Flexibility to Use State Revenues (Morse, Marostica)**

**CCI Position: Oppose**

SB09-228 eliminates, in part, the limit on the growth of total general fund appropriations "6% limit" or "Arveschoug-Bird limit." CCI took an oppose position because of the impact the bill would have had on transportation and capital construction funding, namely, the elimination of the trigger for SB09-01 and HB09-1310. The bill is through the Senate and has been assigned to the House Transportation and Energy Committee for hearing on Tuesday, April 21<sup>st</sup> at 1:30 p.m. There has been much discussion about amendments to address the transportation and capital construction impacts but no firm proposals have emerged to date.

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

**Tourism, Resorts & Economic Development (TRED)**

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**HB 09-1010, Expand Film Production in Colorado (Massey, McGihon, Gibbs, Spence)**

**CCI Position: Support**

HB09-1010 creates the Colorado Office of Film, Television and Media (office) within the Colorado Office of Economic Development in the Governor's Office. As introduced, the bill also created a refundable tax credit but that provision was removed by the House Appropriations Committee on Friday, April 3. Although the creation of the office does not directly affect county government, the office will be a resource for counties where film production is proposed and film production activities can contribute substantially to local economic activity and consequently county revenues. HB09-1010 is now pending on the House Floor.

*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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### **HB09-94, Creation of a Transit and Rail Division within the Department of Transportation (Williams, Levy)**

#### **CCI Position: Support with Amendments**

SB09-94 creates a new Division of Transit and Rail within the Colorado Department of Transportation (CDOT), specifies the powers and duties of the Division and its Director and outlines the Division's role and structure relative to existing CDOT Divisions and Commissions. The bill represents a positive modernization of the Department as many states in the nation have done. CCI believed the introduced bill could be strengthened by language surrounding a statewide transit plan, incorporation of that plan into the statewide transportation plan and adding flexibility to the Department to adapt to future modernization of transit and multimodal planning. On Tuesday the House Transportation and Energy Committee passed SB09-94 with amendments that address the concerns above.

### **HB09-1034, Allow Regional Transportation Authority to Levy Property Taxes (Liston, Gibbs)**

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

HB09-1034 expands the revenue tools for regional transportation authorities (RTAs) to include up to a five mill levy on property within the authority. RTAs currently do not have this power, but could greatly enhance the provision of services for RTAs statewide, particularly in jurisdictions with lower sales tax bases. CCI has supported such a concept historically and supports HB09-1034 in order to allow local voters to make the decision of supporting regional transportation and transit, should they see fit. HB09-1034 extends this authority for 10 years beginning in 2009. The bill was passed by both chambers and is on its way to the Governor.

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