

Legislative Report

CCI Meeting Reminder

All steering committee meetings are held at CCI.

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

June 8 – June 10

CCI Summer Conference

Eagle County, CO

To register and see a tentative agenda visit www.ccionline.org.

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Personal Property Tax Elimination Makes Surprise Advance

Contrary to the conventional wisdom, SB09-85 – which phases out most business personal property taxes over a 40-year period - was approved by the Senate Appropriations Committee on Wednesday, April 15 and referred to the full Senate for consideration. Although the bill seemed to be stuck in committee on a tie vote, when it came up on April 15, there was one member absent and the bill advanced on a vote of five to four.

Even as amended by the Appropriations Committee to exclude local governments within counties that receive more than 30% of their property taxes from business personal property and to phase in the exemption over a period of 40 years, CCI continues to have serious concerns about the impacts of this bill. These concerns include:

- The bill triggers state general fund spending to backfill lost revenue to school districts. This will cost the state more than \$1.3 million in the first year of the phase-in and, when fully implemented, is projected to cost the state \$350 million or more each and every year!
- Elimination of this revenue at a time when property values and sales tax revenues are unstable can only have negative effects on locally-provided-services, such as transportation, infrastructure and public safety, which are necessary to support a healthy business community in both good and bad economic times.
- To the extent it is offered as an economic stimulus, it is important to note that the small relief it provides in its first year will not be felt by its intended beneficiaries for another 36 months according to the Division of Property Taxation.

- Rather than providing true, across the board business relief, exempting business personal property, shifts the property tax burden to businesses that own real estate, rather than machinery and equipment.
- The Senate Appropriations Committee added an amendment to exclude counties with more than 30% personal property value, creating yet another wrinkle in the constitutionally-required uniformity of property taxation. It does not even attempt to address the confusion that will occur when counties at or near the threshold go above or below it from year to year.
- Exempting personal property will force residential values down because of the Gallagher Amendment and exacerbate the disparity that already exists between the taxable value of business property and residential property.
- Property tax, including business personal property tax, is the primary source of revenue for counties and the only source of revenue for many special districts. In some districts this revenue is dedicated to bond repayment.
- Governing bodies do not have the flexibility to substitute a new revenue source if an existing revenue source is eliminated. Any plan to eliminate business personal property tax must include replacement revenue or elimination of mandated spending.
- Local governments already have statutory authority to eliminate business personal property tax in their jurisdiction. This is a decision best made at the local level by the elected officials who are most in touch with their own business community and who are also responsible for balancing their local government budget.

This website link will take you to the Division of Property Taxation's table concerning the distribution of personal property county by county so you can analyze the impact in your area:

http://www.dola.state.co.us/dpt/publications/docs/2008_colo_assessed_values/2008PERSO_NALPROP.pdf

Although the Senate may have already taken final action on this bill by the time you read this article, please take the time to contact your senators and representatives to ensure that they are aware of the impacts of the state making this tax policy decision concerning the local revenues that allow counties to operate.

Agriculture, Wildlife & Rural Affairs (AWRA)

SB09-235, Certain Fees Charged By the Division of Wildlife (Gibbs, Isgar, Merrifield) CCI Position: Monitor

This bill continues and expands the existing habitat stamp program in the Division of Wildlife (DOW). There are currently two stamps, 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 stamps, yet few know about the program and non-sportsman sales represent roughly 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.

On the Senate floor, the bill was amended to require the DOW to direct at least a half-million dollars in additional funds collected from the habitat stamps for the purpose of providing water to the state's rivers and streams, enhancing in-stream flows and benefiting public fishing. Prior to the amendment, the bill did not specify that the money collected from the new habitat stamps had to go to protecting access to hunting and fishing grounds in Colorado. During

committee testimony, sportsmen spoke about their desire to have increased access to land DOW acquires. The bill has been passed by the Senate and is assigned to the House Agriculture Committee.

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

General Government (GG)

SB09-286, Concerning Sentencing Reform (Morse, Carroll M., Levy, Merrifield) CCI Position: Monitor

This bill takes a comprehensive look at sentencing reform in Colorado. The bill reduces a variety of sentences and allows the judicial branch additional flexibility to award probation, earned time and other diversionary sentences that would keep nonviolent offenders out of jail. Finally, the bill would require the Governor's appointed Colorado commission on criminal and juvenile justice to review all future bills proposing a new crime or increasing the penalty.

In 1985 the General Assembly passed a bill that doubled the penalties for all felony classes. Since that time, Colorado has added new crimes to the statutes, increased penalties and incarcerated 400% more people than we did 20 years ago. CCI is concerned that reducing class six felonies to class one misdemeanors will increase population in county jails. The reduction of penalties on lower class misdemeanors, however, can decrease the number of inmates in county jails which could mitigate the other potential increases. Although not enumerated in the bill, the cost savings DOC incurs as a result of this bill, initially estimated to be around \$14 million, could allow the state to invest the savings into essential services needed to reduce recidivism and crime throughout the state.

CCI will continue to work with stakeholders and sponsors to make sure the impacts on county jail inmate population is addressed.

HB09-1335, Concerning the Requirements for Voting Equipment, (Todd, Murray, Williams, Carroll, M.) CCI Position: Support

HB09-1335 is a collaborative solution to the problem of what to do with counties' election machines after HB08-1155. HB08-1155 allowed counties to continue using the election machines, even though the Secretary of State, at the time, had decertified the machines. Colorado has some of the strictest criteria for election machine certification in the United States, yet a very small percentage of the market. What this means is that the three vendors who sell election machines in Colorado, have little reason or motivation to build machines differently for Colorado than for other states; hence, decertified machines.

HB09-1335 allows counties to continue using their election machines until 2014. Without this bill, counties will not be able to use the election machines they currently own and would have to spend tens of millions of dollars to upgrade or replace their machines, assuming this could be accomplished by the time the next election arrives. Prior to 2014, counties will not be allowed to buy new or modify existing machines unless the Secretary of State approves the purchase. The intent is to start moving Colorado towards a paper based election process with standard processes and practices in place prior to 2014.

CCI asks all legislators to support HB09-1335 as a common sense approach to a more efficient and transparent election process in Colorado.

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

Health & Human Services (HHS)

HB09-1020, Concerning Reenrollment in Medicaid for Continued Eligibility (Acree, Spence)

CCI Position: Monitor

HB09-1020 was introduced at the beginning of the session by Rep. Acree, with the intent of streamlining the reenrollment of Medicaid clients. The concern was with the lapse in services that have occurred in the past few years under the CBMS system. The bill, as amended by the House Appropriations Committee, now creates the authority to move forward on the creation of a system of reenrollment via telephone or internet, but is conditioned upon approval by the federal CMS, as well as federal appropriations for this purpose. The bill is permitted to proceed as a pilot, when funds are available, and eventually may move statewide, after considerable review and oversight. The future of this legislation will depend upon activities such as appropriations authority by the legislature, keeping the process open and clear.

CCI recognizes the concerns of the proponents, and does not disagree with the intent of the bill. The changes made in the House relieve county concerns about funding and seem to create a workable process and considerable transparency.

The bill will be heard in Senate Health and Human Services soon.

HB09-1064, Concerning Creating a Legislative Committee to Study Poverty Issues (Kefalas, Sandoval)

CCI Position: Monitor

The bill, as amended, creates the ten-member Economic Opportunity Poverty Reduction Task Force comprised of five members from each chamber of the General Assembly. The task force shall meet at least four times during each interim. Members serve without compensation, but are to be reimbursed for expenses for up to six meetings per year. Legislative Council staff is required to staff the task force. The task force is to prepare a report each year by January 15 to summarize its work and recommendations. It is repealed July 2014. The legislature may accept gifts, grants and donations to support the task force, and any such funding is continually appropriated to the legislature for this purpose. The task force shall only meet if the task force is selected as an approved interim committee by the Legislative Council or the legislature receives sufficient gifts, grants and donations to support the task force. CCI understands that the General Assembly is unlikely to allow more than three interim committees this year.

The task force is required to assess current state policies and practices that promote economic opportunity and poverty reduction, and make legislative recommendations to the Legislative Council. Duties of the task force include developing a comprehensive plan for reducing poverty by at least 50 percent and studying issues relating to poverty, nutrition programs, employment programs and self-sufficiency. The task force is to appoint subcommittees that include representatives of executive branch agencies, local governments, business and labor organizations, education organizations, advocates and other interested parties.

This bill has passed the Senate HHS committee and is awaiting hearing in Senate Appropriations.

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: Support

This is a bill that CCI supports, that permits a county to create a "local improvement district" for the purposes of providing utility projects, particularly to rural areas. Through this mechanism, the bill gives counties an additional financing method for constructing public utility infrastructure, which may include cable, gas, electricity and other utility services.

This mechanism gives counties the benefits enjoyed by public utilities, as such improvements are exempt from competitive bidding, preliminary planning and design specification, supervision of construction by the county engineer and the form and contents of construction contracts.

Douglas County has worked very hard to bring this legislation to fruition and the bill is now on its way to enrolling, then to the Governor's office for action.

SB09-080, Concerning Limited Exemptions for Water Collected from Certain Residential Rooftops (Isgar, Looper)

CCI Position: Support

SB09-080 has been the subject of a great deal of coalition work and amendments. In its final form it makes a great deal of sense and will finally permit a rural resident of Colorado to collect rainwater runoff as an alternative to pumping well water. As the bill is amended, it essentially utilizes the same requirements already in place for an exempt well permit. These well permits are usually residential in nature and do not require augmentation because the usage is presumed to be non-injurious.

Any property owner who has or applies for an exempt well permit will also be able to apply for a permit to collect rainwater runoff from the residential rooftop. The State Engineer's Office will administer this permit just as they administer the current exempt well permit. The thinking is that the use of rainwater runoff replaces current uses of a well, and so long as the well permit requirements are reflected in the runoff collection, there is no impact on surface waters of the state.

Many counties have watched and supported this legislation and will be pleased to know that the Senate has concurred with the House amendments and re-passed the bill. The bill is now on its way to the Governor for final action.

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

Public Lands (PL)

HB09-1199, Colorado Healthy Forests and Vibrant Communities Act of 2009, (Scanlan, Gibbs)

CCI Position: Support

Last week CCI presented an update on HB09-1199 and this week there is one more addition. Rep. Scanlan postponed indefinitely SB09-018 because the money for more hazardous fuel mitigation was rolled into HB09-1199. As amended in Senate Appropriations, the Department of Natural Resources (DNR) will transfer \$1.95 million, divided up among the multiple programs established in the bill. Funding for these programs will come from Tier II severance tax funding from the DNR.

This week, House sponsors of SB09-016, Reps. S. King and Scanlan, will ask the House Appropriations committee to postpone indefinitely this bill as well. SB09-016 sought to allow a five year exemption from business personal property tax for businesses seeking uses for bark beetle wood. Within HB09-1199 there is language that provides \$100,000 for a revolving loan to support woody biomass utilization projects and the development and marketing of traditional and nontraditional products. Also in HB09-1199 there is \$80,000 for start up capital for new facilities that harvest, remove, use and market beetle killed wood.

CCI supported both SB16 and SB18 and is happy that both bills were able to be included in the forest health omnibus bill for the session.

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

Taxation & Finance (TF)

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, to create a regional tourism 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.

SB09-173 was passed by the House Business Affairs Committee and sent to the House floor, but has been referred to the House Finance Committee. CCI staff has met with proponents and

opponents of the bill related to amendments to mitigate the local and state fiscal impacts. The bill is scheduled to be heard in House Finance Wednesday, April 22.

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% or Arveschoug-Bird limit). CCI took an oppose position because of the impact the bill would have on transportation and capitol construction funding, namely, by the elimination of the triggers for SB09-01 and HB09-1310. The bill is through the Senate and has been assigned to the House Transportation and Energy Committee and has been calendared for hearing on Tuesday, April 21st at 1:30 p.m. CCI staff has been involved in discussions surrounding amendments to address the transportation and capital construction impacts.

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

Tourism, Resorts & Economic Development (TRED)

HB 09-1010, Expand Film Production in Colorado (Massey, McGihon, Gibbs, Spence)
CCI Position: Support

As noted in last week's *Legislative Report*, 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 has passed the House and is scheduled to be heard by the Senate State, Veterans & Military Affairs Committee on Wednesday, April 22.

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

Transportation & Telecommunications (TT)

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

As amended by the House, HB09-1284 requires CDOT, an MPO and a MPO's member local governments to identify and prioritize congested corridors for development of a corridor capacity strategic plan (plan) in order to preserve the capacity and efficient functioning of the state transportation system in congested areas or areas projected to become congested as a result of future development. The bill then allows a plan to be developed for congested corridors and for those corridors forecasted to be congested in areas covered by a MPO. If a plan is adopted, locals are to use best efforts to adopt necessary ordinances and regulations. The bill further states that prior to the next STIP, CDOT and MPOs shall identify corridors, plans and related timelines and that CDOT capacity improvements shall not commence until plans are adopted.

If a corridor plan has not been developed or developed and determined to be inconsistent with the land use and trip generation assumptions in the plan, CDOT would be authorized to request a traffic study that meets department criteria on system impact, review changes to land use and zoning, and submit comments within timelines of local jurisdiction. CDOT would be further authorized to create internal rules and parameters of size and type of developments to trigger review and to receive county and municipal applications for rezoning and preliminary subdivision plans akin to current law for counties and municipalities.

The Senate Transportation and Energy Committee took testimony, then tabled the bill to address opponents' concerns. CCI staff has initiated an amendment to clarify that capacity improvements are limited to CDOT jurisdiction as the bill sponsors have intended.

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

Other News

A Message from the Colorado Assessors' Association

This year is a reappraisal year for all 64 counties in Colorado. Given the dire condition of the national economy, assessors are anticipating a busy and difficult appeals season beginning next month. This is especially true in counties where sales data indicates steady or increased assessments.

Interestingly, it appears that most mountain counties and the western slope counties will be increasing assessments. This is good news for property owners. There are many parts of the country where property owners find themselves upside down with their real estate investments and have lost thousands in equity.

This is an attempt to get the word out regarding some of the requirements of the law with which assessors must comply, when valuing property. All commissioners in Colorado will be involved with the upcoming board of equalization hearings and their telephones will start ringing when the new assessments are mailed in a couple of weeks.

First of all, it is important to note that assessors must only look at sales activity during the data collection period. The data collection period for the 2009 reappraisal is January 1, 2007 thru June 30, 2008. Assessors cannot consider any market activity after the June 30, 2008 date. In counties where there are not enough sales during these 18 months, assessors can look at earlier sales (prior to January 1, 2007).

Secondly, assessments of all property, other than agricultural land, must reflect market value based on the sales that occurred during the data collection period. All assessors' offices are audited by the state to ensure that the assessments are in compliance with this requirement. In other words, assessors have no choice but to issue assessments that reflect the market activity from the data collection period.

Please feel free to contact Mark Vanderpool, Montezuma County Assessor and President of the Colorado Assessors' Association (mvanderpool@co.montezuma.co.us or 970-565-3428) with any comments or questions regarding this matter.