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Legislative Report | March 13, 2023

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Reference:

CCI Policy Statement

2023 Legislative Priorities

Bill Tracking/Overview

COLORADO COUNTIES, INC.
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Agriculture, Wildlife & Rural Affairs

Chair: Commissioner Terry Hofmeister, Phillips County
Vice Chair: Commissioner Gordon Westhoff, Morgan County
CCI Staff: Reagan Shane

No Active Legislation

COLORADO COUNTIES, INC.
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General Government

Chair: Commissioner Scott James, Weld County
Vice Chair: Commissioner Jody Shadduck-McNally, Larimer County
CCI Staff: Eric Bergman

HB23-1032, Civil Action Remedy Provisions

HB 1032 would allow damages for emotional distress in discrimination cases where the plaintiff is a person with a disability. It would also allow the court to award attorneys' fees – but just to the prevailing plaintiff in a case. CCI believes that it would be more equitable to allow the court to award attorneys' fees to the prevailing *party* – either the plaintiff or the defendant. Doing so would help protect a county against frivolous lawsuits. CCI has met with the sponsor and other stakeholders last month to discuss the bill and offer some proposed amendments. The bill will be heard in the House Judiciary Committee on Tuesday, March 14.

Position: Amend
Sponsors: Rep. D. Ortiz

HB23-1057, Restroom Amenities for All Genders in Public Buildings

As introduced, HB 1057 would require that all newly constructed public buildings provide a non-gendered restroom facility or a multi-stall non-gendered facility on each floor where restrooms are available. The bill also required that if any restroom renovation exceeding $10,000 takes place in an *existing* public building, the owner must comply with the non-gender restroom availability requirement. The bill also requires that at least one diaper changing station be made available in a non-gender restroom on each floor where there is a public restroom. Finally, the bill requires signage alerting the public to the presence of a diaper changing station using pictograms that are void of gender. The bill provides for legal recourse for employees in public buildings that do not comply with the non-gender restroom requirement.

Following a meeting with local government stakeholders – including several county facilities managers, a strike-below amendment (essentially a new bill that would replace the current one) was prepared that incorporated a number of proposed changes that CCI suggested. The amendment exempts buildings on the historic register and buildings that are leased by a local government. It also removes the $10,000 threshold for renovations and replaces it with language stating that bathrooms in existing buildings have to comply only if renovations actually change the footprint of the bathroom or include replacement or modification of plumbing installations. The amendment also phases in bathrooms that are not client-facing or open to the public. Finally, the amendment allows diaper changing stations to be in areas other than bathrooms as long as these areas are cleaned with the same regularity as bathrooms.

The amended bill is now awaiting a hearing in House Appropriations. There are still a couple of remaining issues that CCI would like to see addressed or clarified in the legislation, but we are grateful for the sponsors' willingness to work with counties on their concerns.

Position: Amend
Sponsors: Rep. McCormick & Rep. Vigil, and Sen. Jaquez Lewis

HB23-1065, Independent Ethics Commission Oversight of Local Government Officials

As created in the state constitution, the Independent Ethics Commission has oversight for state and local elected officials (including counties). HB 1065 would expand the jurisdiction of the Commission to include special districts and school districts. The bill is awaiting a hearing in the House Appropriations Committee.

Position: Monitor
Sponsors: Rep. Story & Rep. Parenti and Sen. Marchman

HB23-1076, Changes to Workers Compensation Law

HB 1076 makes a number of changes to workers compensation laws in the state. Specifically, the bill changes the limit on workers compensation claims by reason of mental impairment from 12 to 36 weeks, raises the allowable contingent attorney fees percentage and allows an expedited hearing for employees whose temporary total disability benefits are terminated by the employer based on an authorized medical provider's release to return to regular employment. Much of what is in the legislation came out of a series of negotiations between self-insured groups and bill proponents. The bill is awaiting a hearing in House Appropriations.

Position: Pending
Sponsors: Rep. Daugherty

HB23-1139, Modifications of County Salary Categorizations

HB 1139 would modify either the category or subcategory of Archuleta, Delta, Eagle, Grand, Las Animas, Ouray, Pitkin, Saguache and Summit counties for purposes of increasing the salaries of county elected officials. As the state constitution prohibits an elected official from receiving a raise during his/her term, these salary increases would not go into effect until the elected official is reelected in either 2024 or 2026. The bill was heard last week in the Senate Local Government and Housing Committee where an amendment adding Montezuma and Routt counties was offered. The bill passed unanimously with the amendment and the bill subsequently passed the full Senate on the consent calendar. The House must now take up the bill a final time to consider the Senate amendments. CCI has prepared a fact sheet on the bill, which can be viewed here.

Position: Support
Sponsors: Rep. Martine and Sen. Simpson

HB23-1149, Conduct of Elections in Small Counties

HB 1149 would have allowed smaller counties (with between 10,000 and 37,500 active electors) to apply to the Secretary of State's office to reduce the number of voter service and polling centers (VSPCs) that must be established during an election. The bill also would have allowed a county to appoint staff from the county clerk's office to serve as election judges. Many small counties have trouble finding enough election judges during elections. The bill was postponed indefinitely in the House State Affairs Committee. The Secretary of State's office is looking at the issues in the bill and has reached out to the County Clerks Association about some possible ways forward outside of legislation.

Position: Support
Sponsors: Rep. Holtorf and Sen. Pelton B.

HB23-1180, Expanding Board of County Commissioners in Large Counties

HB 1180 would have required that any county with a population greater than 70,000 must move to a five-commissioner set-up, and at least three of the five commissioners must be elected by **just** by the voters in their district. Colorado statute already allows for either a referred or initiated measure to accomplish this change at the county level. A move to five commissioners can also be accomplished currently through the adoption of a county home rule charter. Commissioners were concerned about the significant unfunded mandate this would have placed on their counties as well as the fact that the legislation did not allow local voters the opportunity to decide for themselves how their county government should be structured. The bill was postponed indefinitely in the House State Affairs Committee.

Position: Oppose
Sponsors: Rep. Marshall and Sen. Priola

SB23-053, Prohibition on Requiring Non-Disclosure Agreements

SB 053 would prohibit all government employers (including counties) from making current or prospective employees sign a non-disclosure agreement (NDA). The bill exempts NDAs that would prevent disclosure of privacy interests of the employee or matters that are required to be kept confidential by federal or state law or matters bearing on the specialized details of security arrangements or investigations. The bill was amended in the Senate State Affairs Committee to also exempt NDAs that prevent disclosure of trade secrets or confidential information made available the employee by a vendor or contractor. The bill will be considered by the full Senate this week, where more amendments are expected.

Position: Amend
Sponsors: Sen. Kirkmeyer

SB23-105, Implementation of Measures to Implement Equal Pay for Equal Work

SB 105 addresses some issues with the Equal Pay for Equal Work legislation that was passed back in 2019. While no one argues with the intent of the original legislation, several problems have arisen as counties have attempted to implement the Act at the local level.

As enacted, the 2019 bill required that an employer notify all employees and the public of job opportunities and allow them to apply. While this is appropriate for vacancies and newly created positions, there are a number of other job advancement situations that are not really "competitive" in nature that should not be advertised to the entire eligible workforce. One example is career progression jobs, where an employee moves up to a different title and salary based on predefined performance metrics. Another example is an instance where an employee has assumed additional duties and/or responsibilities over time and is now being given a raise and/or a revised job description to reflect these additional duties. Neither of these job advancement situations should warrant a "job posting," but under the 2019 bill it was required.

Posting these job advancement notices was creating confusion among job hunters and creating administrative headaches for county human resource offices. At the behest of these county human

resource professionals, CCI elevated a proposed policy fix of the Equal Pay for Equal Work Act as a legislative priority for 2023.

CCI has been working with the sponsors and proponents of the original 2019 bill since last fall on this issue. The introduced bill basically exempts "career progression" and "career development" opportunities from the job posting requirements in the original bill. CCI is grateful for the productive conversation with the sponsors and the agreed-to changes that are reflected in SB 105.

The introduced bill features several other policy changes that were **not** part of the CCI-initiated conversation, including an additional enforcement role for the Colorado Department of Labor and Employment and increasing the potential backpay from three years to six years for an employee in a prevailing lawsuit. While CCI is very supportive of the career progression/development provisions in the bill, there are concerns about the six-year backpay addition. The bill is awaiting a hearing in the Senate Appropriations Committee.

Position: Amend
Sponsors: Sen. Danielson & Sen. Buckner, and Rep. Gonzales-Gutierrez and Rep. Bacon

SB23-111, Public Employees' Workplace Protection

SB 111 prohibits public employers from coercing, intimidating, or imposing reprisals against employees who exercise their right to organize, form or join an employee organization. The bill applies to municipalities, special districts, higher ed, the General Assembly and counties with populations less than 7,500 (those that were not included in last year's collective bargaining legislation). The bill does not compel a local government to recognize an employee organization or enter into negotiations with any employee organization. CCI has concerns that the legislation appears to extend these same protections to workers who engage in concerted activities such as strikes or work stoppages. The bill also allows supervisors and managers to join employee organizations, something that was prohibited in last year's collective bargaining legislation. The bill is awaiting a hearing in the Senate Appropriations Committee.

Position: Oppose
Sponsors: Sen. Rodriguez and Rep. Woodrow

SB23-147, Regulation of Kratom

SB 147 was the second attempt to establish a regulatory framework for vendor registration and the processing, labeling and sale of kratom - an herbal extract from Southeast Asia that is used as a stimulant, pain reliever and for treating opioid addiction. A bill passed last year established that a vendor shall not sell kratom to anyone under 21 years of age and allowed local governments to enact ordinances or resolutions on the sale of kratom that are more stringent than statutory guidelines. That bill also directed the state health department to conduct a study of kratom regulation and issue a report to the General Assembly. SB 147 would have implemented some – but not all – of the recommendations in the report that was issued by the state health department. CCI was seeking an amendment to clarify county ordinance authority. The bill was postponed indefinitely in the Senate Finance Committee.

Position: Amend
Sponsors: Sen. Sullivan and Sen. Ginal

SB23-172, Protecting Opportunities and Workers' Rights (POWR) Act

SB 172 seeks to establish a new legal standard for workplace harassment claims that will replace the existing "severe or pervasive" standard. The new suggested standard in the bill could include single instances of harassment or discrimination. The bill also makes changes to the use of non-disclosure agreements (NDAs) in workplace settings to allow for disclosure of harassment to medical or mental health providers, religious advisors legal counsel or family. The bill will be heard in the Senate Judiciary Committee on March 20.

Position: Pending
Sponsors: Sen. Gonzales and Sen. Winter F., and Rep. Weissman and Rep. Bacon

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Health & Human Services

Chair: Commissioner Janet Rowland, Mesa County
Vice Chair: Commissioner Wendy Buxton-Andrade, Prowers County
CCI Staff: Gini Pingenot / Katie First

HB23-1027, Parent & Child Family Time

This bill is being brought forward in response to the work of the High-Quality Parenting Time Task Force, which was created by HB21-1101; county human services directors, caseworkers, and attorneys participated in the task force (view their membership here).

Under current law, visitation must occur when a child is taken into the custody of the county department of human services and is required to commence within 72-hours after a hearing.

The bill defines in statue family time as "any form of contact or engagement between parents, legal custodians, guardians, siblings, and children or youth for the purposes of preserving and strengthening family ties". Much of the bill replaces the current standard of "visitation" with this new term "family time".

Under the bill, county departments are to encourage the maximum amount of family time and must propose a family time plan to the court. Creates a presumption that supervised family time should be supervised by informal supports (such as relatives, kin, or other community-based supports) in the least restrictive setting; and that these supports may also be utilized for transportation to family time. Limits the court from restricting or denying family time, unless it would risk the child's safety or mental, physical, or emotional health. Withholding family time is prohibited as a sanction for both parents and children.

In addition, the High-Quality Parenting Time Task Force will continue to meet for an additional year and shall issue a report regarding strengths and needs for providing family time; identify measures to assist in building capacity for supervised family time; and 'best practices for funding'.

The bill has been amended in order to assist with some major fiscal impacts to counties. Including the removal of the once every seven-day standard for family time in the introduced bill; addition of a "best interest of the child" standard when considering family time; recognition of the child's and parent's preferences in considering a family time plan; and addition of a "volunteer" description of informal supports the bill encourages to supervise family time. An updated version of the bill will those amendments is available here.

In addition, CCI would like to have the High Quality Parenting Time Task force, which will continue meeting under this bill, consider family time for families with an incarcerated parent in light of SB23-039.

The bill has passed on Second Reading in the House.

Position: Amend
Sponsor(s): Rep. Joseph & Rep. Weissman and Sen. Winter

Staff: Katie First

HB23-1043, Emergency and Continued Placement with Relative or Kin

HB23-1043, a CCI initiated bill, makes several changes to the types of convictions that would limit relatives or kin from being considered as a possible emergency and/or long-term placement option for kids in the child welfare system.

Specifically, HB23-1043:

1.) Removes misdemeanor convictions
2.) Adds timeframes for certain felony convictions
3.) Continues to prohibit relatives or kin with sex abuse related convictions from being considered as an emergency and/or long-term placement option

Even with these changes to statute, a thorough assessment of the relative or kin's home and situation will occur before placement occurs to ensure a safe situation for children and youth. These changes to statute will ensure and increase safe placements of children with relatives or kin while reducing trauma for children, preserving safety, and sustaining familial ties that can increase positive outcomes for children involved in dependency and neglect cases.

Additionally, the Federal Family First Prevention Services Act (FFPSA) prioritizes these types of placements over foster and congregate care. HB 1043 will help Colorado meet the goals of FFPSA and provide safe care for children in need of out-of-home care in child abuse and neglect cases.

You can find CCI's Factsheet on HB 1043 here.

HB 1043 is waiting for the Governor's consideration.

Position: Support (CCI Initiated Bill)
Sponsors: Rep. Lindsay & Rep. Pugliese, and Sen. Ginal & Sen. Rich
Final Status: Sent to Governor
Staff: Gini Pingenot

HB23-1142, Information of Person Reporting Child Abuse

HB 1142 would remove the option for public reporters of potential abuse or neglect from being anonymous. Currently, all reports of abuse and neglect are confidential. A very small percentage are made anonymously. Proponents of the bill are concerned that the ability to make anonymous calls enables nefarious motives. Many in the child welfare community are concerned that, while not requested often, the inability to make anonymous reports will keep some people from reporting for fear of retaliation.
HB 1142 will be amended in the House Public & Behavioral Health and Human Services Committee on Tuesday, March 14th. CCI understands that the amendment will require notification to those calling to report potential abuse and neglect that their call is being recorded. Additionally, the Colorado Department of Human Services will convene a workgroup to develop recommendations to standardize the questions asked of callers as much as practicable.

Position: Amend
Sponsors: Rep. Pugliese and Sen. Kirkmeyer
Staff: Gini Pingenot

HB23-1160, Colorado Trails System Requirements

As introduced, HB 1160 makes several changes to child welfare practice BEFORE information regarding an alleged person responsible for child abuse or neglect (PRAN) is recorded in the state's child welfare data system, (aka Trails). Specifically, the bill is intended to provide more information to the PRAN about how and why their information will be listed in Trails and the available appeals process. HB 1160 also limits the release of reports of child abuse and neglect for employment purposes until after the appeals process has been exhausted.

Currently, counties are required to include the alleged PRAN into Trails as part of the referral and assessment process. Counties are required to close an assessment within 60 days which includes entering a finding of either founded, inconclusive or unfounded. State level appeals processes are available to individuals alleged to be responsible for abuse and neglect but those appeals are typically not resolved within the 60 day timeframe. If a founded finding is overturned on appeal, the state modifies the entry in Trails and changes it at that point. Counties do send a letter to any person who has a substantiated finding but that occurs once the finding is complete in Trails.

As part of a background check, the state releases substantiated findings of abuse and neglect to very select employers (such as child care providers and other employers where adults are in a trusted position with children). It's also important to note that a referral to the child abuse and neglect hotline does not trigger the 'founded, unfounded or inconclusive' designation. This only occurs if an assessment/investigation occurs on a reported case.

HB 1160 was heard in the House Public & Behavioral Health & Human Services Committee but was laid over for action at a later date. CCI is seeking amendments that would allow more in-depth conversations to occur in a task force setting over the 2023 interim.

HB 1142 will be back before the House Public & Behavioral Health and Human Services Committee on Tuesday, March 14th.

Position: Amend
Sponsors: Rep. Evans
Staff: Gini Pingenot

HB23-1201, Prescription Drug Benefits Contract Term Requirements

HB 1201 is being initiated by the Colorado Department of Health Care Policy and Financing (HCPF). The bill is intended to remove the ability of pharmacy benefit managers (PBMs – think Express Scripts, CVS Caremark and Optum RX) to engage in spread pricing agreements.

PBMs function as intermediaries between insurance providers and pharmaceutical manufacturers. They help negotiate reduced prices of prescription drugs. Despite this negotiation, employers and their employees may still be paying MORE than the price they negotiated.

PBMs offer employers both 'spread pricing' agreements and pass through arrangements. The upside of a spread pricing agreement is that the PBMs can create predictability for an employer. These agreements shift the risk of drug price increases, increased utilization, and other unknowns away from the employer and to the PBM. The alternative is the pass through arrangement in which 100% of the cost of the drug is passed through to the payer.)

Provisions of HB 1201 are opposed by the pipe fitters, mechanical contractors and plumbers union because many of their health plans are ERISA plans (health plans that are regulated at the federal level due to their multi-state application).

CCI is aware of an amendment that will give **employers** the ability to **ELECT to be subject** to the requirements that are found in the remaining portions of the bill. Those are: 1.) that covered drugs be equal to or less than the amount paid by the carriers or PBM; 2.) that a carrier disclose the prescription drug contract terms and 3.) that an audit may be performed by the division of insurance on a plan for compliance.

The amendment also says that – in the case of Medicaid - covered drugs must be equal or less than the amount paid by the carriers/PBM.

HB 1201 has been assigned to the House Health and Insurance Committee but has not yet been calendared.

Position: Support
Sponsors: Rep. Daugherty & Rep. Soper
Staff: Gini Pingenot

HB23-1236, Implementation Updates to Behavioral Health Administration

HB 1236 clarifies some of the provisions that were adopted in HB22-1278 which created the Behavioral Health Administration. Of specific note to counties is the provision (section 18) regarding the 'regional subcommittees' of the new Behavioral Health Administrative Services Organizations (BHASOs). BHASOs regions will soon be drawn and they will serve as the intermediaries for those who are underinsured and uninsured to access behavioral health services.

Counties have expressed an interest in having the 19 opioid regions also serve as the regional subcommittees to the BHASO. Click here to access a letter CCI recently sent Dr. Morgan Medlock. The opioid regions could have their purview expanded to:

1.) Determine services needed to establish a full continuum of care in the BHASO region;
2.) Elevate the barriers people have in accessing quality and timely care in the BHASO region; and
3.) Identify specialty services needed to serve priority populations

Opioid regions have IGAs that outline their responsibilities. Most IGAs appear to have the option to appoint advisory committees as needed. Given the fact that this structure already exists and is a vehicle to hear from the community about what is needed (which then informs how the limited opioid dollars are spent), it could make sense to use these regions to serve as the regional subcommittees required pursuant to state statute.

Position: Pending
Sponsors: Rep. Young & Rep. Amabile
Staff: Gini Pingenot

SB23-039, Reduce Child & Incarcerated Parent Separation

This bill addresses the involvement an incarcerated parent (in a Department of Corrections (DOC) facility, a private correctional facility under contract with DOC, or a county jail) whose child is subject to a dependency and neglect case with a county human services department. Includes:

- Creating a right for parents to attend and fully participate in all proceedings during a dependency and neglect case.
- Adding to statute that courts shall issue orders for incarcerated parents to attend all hearings related to their child's dependency and neglect case. If the facility cannot facilitate transport (to attend the hearing in person), the facility must notify the court 72 hours in advance and make every reasonable effort to allow for virtual participation. Should the parent refuse transportation to the hearing, the facility must notify the court as soon as practicable.
- During the dispositional hearing, the county human services caseworker must provide to the court a report of the services and treatment available to a parent at the facility and the opportunities for family time at the facility. The treatment plan for an incarcerated parent should include: how the parent will participate in all meetings and hearings with the court and county department; relevant services and treatment available in the facility that address parents issues affecting their child's health, safety or welfare; and opportunities for family time, either in person at the facility or virtually.
- Should a parent become incarcerated for more than 28 days following a dispositional hearing, the county department shall submit an amended treatment plan.
- Removing long-term confinement as a criteria to terminate parental rights and when the court considers compliance with the parents treatment plan, the court must consider any limitations to complying while the parent was incarcerated.

When a parent has been sentenced to a DOC facility, the individual must report (via the mittimus) if they are involved in an open dependency and neglect case, so that it can be considered for placing the individual. Further, DOC must develop opportunities to facilitate continued relationships between children and their parents who are incarcerated and be designed to mitigate trauma.

While county departments strive to involve incarcerated parents in the proceedings of their child welfare cases, there are numerous barriers to doing so, *none* of which are addressed in this bill. In addition, a recent child welfare workload study already estimated that cases involving an incarcerated parent adds 70 minutes to 160 minutes of additional work per month. The mandates of this bill would significantly add burden when state funding for county caseworkers is already underfunded.

Due to this, initially counties requested the bill become a funded pilot program, study duo to better understand the implications of these changes, how to address anticipated barriers, review funding opportunities, and collect data on this population, before statewide adoption of these concepts. However, funding for this pilot does not seem likely.

Alternatively, CCI has worked with the bill proponents on a series of amendments to limit the impacts to county departments:

- Limit the right to appear only to incarcerated parents & allow the court to proceed without the parent present; if a parent does not appear, the court shall conduct an inquiry as to why
- Add language that the caseworker will take certain actions on the case "upon the caseworkers knowledge of incarceration"
- Edits to the 'family time' section for considerations of the facility's capabilities

- Edits to the treatment plan section, that it shall be 'appropriate' & simplify to be that the report must include information on the available services and treatments available in the facility; this will occur at the next scheduled hearing
- Edit the "continuous incarceration" period from 28 days to 35 days, from the caseworkers time of knowing the incarceration
- Add considerations for the child's mental, physical or emotional needs when considering an appropriate treatment plan for a parent who is long-term incarcerated
- Edit the "no appropriate treatment plan" section as it related to long term incarceration to consider the lack of services or treatment to address the unfitness of the parent (as opposed to a lack of appropriate treatment plan)

The bill's proponents have committed to having these amendments adopted during its Senate Appropriations committee hearing this coming Friday, March 17.

Position: Amend
Sponsor(s): Sen. Buckner and Rep. Amabile
Staff: Katie First

SB23-064, Continue the Office of Public Guardianship

For almost a decade, Colorado has diligently worked on the issue of providing guardianship services to indigent and at-risk adults who lack sufficient capacity to make decisions on their own. To date, the Colorado Office of the Public Guardianship consists of a handful of people who are piloting guardianship services in the second Judicial District which cover the City and County of Denver. As of September 2022, the Office had received 288 referrals for services, 82 of which were outside of Denver.

SB 64 indefinitely extends the guardianship office (it is scheduled to end on June 30, 2024), extends the guardianship services to every judicial district in the state by December 31, 2027, creates a 7 members board to oversee the Office's work, and requires guardians to ultimately be certified to preform the work that is required.

Counties may, but are not required, to provide guardianship services to individuals in need. County Adult Protective Services are ill equipped to do this work and in some cases, the individual could benefit from being moved to a professional, certified guardian. CCI is seeking an amendment to ensure that this is an option under SB23-064.

SB 64 is waiting to be heard in the Senate Appropriations Committee.

Position: Amend
Sponsors: Sen. Gardner & Sen. Ginal, and Rep. Snyder
Staff: Gini Pingenot

SB23-082, Colorado Fostering Success Voucher Program

SB23-082 creates the Colorado Fostering Success Voucher Program for individuals between 18 and 26 who have prior foster care or kinship care involvement and are currently experiencing or at imminent risk of homelessness, to provide housing vouchers and case management services.

The program will be jointly implemented by the State Department of Human Services (CDHS) and Department of Local Affairs (DOLA). Availability, standards, and services for the program are described in the bill.

Funding for this program was requested by the Colorado Department of Human Services for their next budget. The request includes funds for the vouchers, additional case management services, and FTE to provide the necessary assistance. The departments budget request is available here.

The bill passed its Senate Health & Human Services Committee hearing, but is now awaiting a hearing with the Appropriations committee.

Position: Support
Sponsor(s): Sen. Zenzinger & Sen. Kirkmeyer and Rep. Amabile & Rep. Michaelson Jenet
Staff: Katie First

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Justice & Public Safety

Chair: Commissioner Tamara Pogue, Summit County
Vice Chair: Commissioner Longinos Gonzalez, El Paso County
CCI Staff: Katie First

HB23-1075, Wildfire Evacuation & Clearance Time Modeling

HB23-1075 allows entities, including counties, to request the Office of Emergency Management to provide resources and technical assistance to perform evacuation and clearance time modeling and publish the information on a publicly accessible website. By July 1, 2026, each local emergency management agency within a wildfire risk area, shall perform an evacuation and clearance time modeling report, to be included in its emergency management plan.

In addition, after January 1, 2024, the bill requires new developments to submit an evacuation and clearance time modeling report with its development permit; local governments shall not approve the development permit unless the report is adequate. Local governments may decide at what point in the permit approval process, the evacuation and clearance time modeling report is approved.

Commissioners have outstanding questions regarding how their staffs will work with the state Office of Emergency Management to receive the models and concerns that making the models publicly available may lead to inadvertent unintended consequences for residents. CCI is working with the bill sponsors to ensure these concerns are addressed while maintaining public safety.

During it's committee hearing today (Monday, March 13), the bill sponsor plans to bring forward this strike below amendment, which would study the efficacy and feasability of integrating evacuation and clearance time modeling into its emergency management plans.

Position: Amend
Sponsor(s): Rep. Snyder

HB23-1096, Wildfire Resilient Homes

HB23-1096 expands the existing Wildfire Mitigation Resources and Best Practices grant program to allow grant recipients to expend funds on programs, education and resources that will assist homes be more resilient to wildfire, for homes located in high risk wildfire areas.

Commissioners are concerned about how homes built or rebuilt with these resources may become out of compliance with the potential creation of the Wildfire Resiliency Code Board and its building code requirements. In addition, they feel more private partnerships should be utilized to accomplish this mission.

The bill was postponed indefinitely, at the request of the sponsor.

Position: Oppose
Sponsor(s): Rep. Snyder
Final Status: Postponed Indefinitely

HB23-1100, Restrict Government Involvement in Immigration Detention

Beginning January of 2024, the bill would prohibit various involvement between state or local governments with private entities for the detaining of immigrants, selling property to the private entity and defraying costs to build a facility.

In addition, government entities may not enter or renew immigration detention agreements; for entities with such an agreement, the entity will terminate the agreement by January 1, 2024.

The bill has been introduced in the Senate but is awaiting its Judiciary Committee hearing.

Position: Oppose
Sponsor(s): Rep. Ricks & Rep. Garcia and Sen. Jaquez-Lewis & Sen. Gonzales

HB23-1151, Clarifications to 48-Hour Bond Hearing Requirement

Under current law, bond hearings must occur within 48 hours for municipal and county court. The bill clarifies that drug or alcohol use and serious medical or behavioral health emergencies are not violations of the 48 hour hearing rule; however, when the emergency has been abated, the Sheriff shall bring the individual at the next scheduled bond hearing. When this occurs, the Sheriff shall provide the court with the details of the occurrence and document the circumstances. The bill maintains the usage of audiovisual or telephone conferencing for these purposes.

The bill also clarifies that the 48 hour requirement applies whether:

- The individual is held in custody in a jurisdiction other than the one that issues the arrest warrant; or
- Money bond was previously set ex parte.

The bill has passed in the House and has been introduced in the Senate; it will be heard by the Judiciary Committee on March 20.

Position: Monitor
Sponsor(s): Rep. Woodrow & Rep. Bockenfeld and Sen. Rodriguez & Sen. Gardner

HB23-1153, Pathways to Behavioral Health Care

The bill requires the Colorado Department of Human Services (CDHS) to conduct a feasibility study regarding the intersection of Colorado's Behavioral Health Service Availability and the Judicial System and determine the feasibility of establishing a system to support individuals with serious mental illness' access to behavioral health care and housing support services. The study shall be submitted by December 31, 2023 to the General Assembly, the Governor and impacted state departments.

The bill unanimously passed the House Public & Behavioral Health & Human Services Committee and is awaiting its Appropriations Committee hearing.

Position: Support
Sponsor(s): Rep. Armagost & Rep. Amabile and Sen. Pelton & Sen. Rodriguez

HB23-1165, County Authority to Prohibit Firearms Discharge

The bill amends the circumstances for when a county may limit the discharge of firearms by replacing the current population per square mile threshold to a 35 dwellings per square mile threshold and removing the prevention of discharge on private grounds.

The bill maintains that firearms may still be discharged in these areas by: a peace officer, an indoor shooting gallery on a private residence or a licensed shooting range. It has been amended to also exempt: lawful hunting, livestock management and wildfire management.

Lastly, the bill maintains that this section does not "permit a board of county commissioners to restrict or otherwise affect any person's constitutional right to bear arms or own or possess arms or to use arms in defense of self, family, or property".

The bill has passed the House and has been assigned to the Senate Local Government and Housing committee.

Position: Oppose
Sponsor(s): Rep. Amabile & Rep. McCormick and Sen. Jaquez Lewis

HB23-1237, Inclusive Language Emergency Situations

The bill requires the state's Office of Emergency Management to study:

1. Agencies that need to be able to provide emergency alerts in a minority language and
2. What local 911 agencies need to provide a live translator or interpreter during 911 calls.

The study shall consider available funding, technology, resources and best practices.

In addition, the bill requires that when emergency alerts are sent via text they will be sent in the minority language, if 2,000 or 2.5% of the adult residents speak English less than very well. This must occur either by January 1, 2026 or a date recommended by the study.

The state demographer estimates that thirty one counties would fall into the above described category: Adams, Alamosa, Arapahoe, Bent, Conejos, Costilla, Crowley, Denver, Dolores, Eagle, Fremont, Garfield, Kit Carson, Lake, Las Animas, Lincoln, Moffat, Montrose, Morgan, Otero, Phillips, Prowers, Rio Blanco, Rio Grande, Saguache, San Juan, San Miguel, Sedgwick, Summit, Weld, Yuma

Position: Pending
Sponsor(s): Rep. Velasco and Sen. Will

SB23-166, Establishment of a Wildfire Resiliency Code Board

The much anticipated bill to create a code board which would adopt building codes in the Wildland Urban Interface (also known as the "WUI") has been introduced as SB23-166.

The concept for this bill goes back to July 2021, when Governor Polis requested the Colorado Fire Commission to consider a statewide approach for land use planning and building resiliency in the WUI (view the letter here). The Fire Commission recommended the creation of a board to define the WUI and building codes that would apply.

During the 2022 legislative session, there was consideration to add the WUI Code concept to an existing bill via an amendment. CCI took an amend position on the WUI Code Concept and secured the requested changes. However, the WUI Code concept was not ultimately adopted onto the bill and CCI did not officially revisit its position after securing its amendments (view the final version of the concepts amendment here; yellow highlights indicate the modifications secured at the request of CCI).

Since last year, CCI has greatly appreciated the continued stakeholder work performed by Senator Cutter and others on this concept.

As introduced, SB23-166 creates the "Wildfire Resiliency Code Board" which is a type 2 entity (learn more about the types of entities here), with the caveat that "the board exercises its powers and performs its duties and functions under the division [of Fire Prevention and Control] and the executive director [of the Department of Public Safety, Director Stan Hilkey]" (page 4, line 3-8).

The 21-person board includes building code officials, fire marshals, land use planners, hazard mitigation professionals and many other related professions. It also contains six local government officials – three from counties and three from municipalities. Of the three county representatives, one must represent rural areas, one must represent urban areas, and one must represent "the state at large". Appointments are made by the majority and minority parties of legislative leadership and the Executive Director of the Department of Public Safety. The members must reside or work in areas at high risk of wildfire, until the WUI is defined, then they must reside or work in the WUI. There must also be reasonable efforts made to make geographically and demographically diverse appointments. (The board membership is described on pages 4-7).

The "Wildfire Resiliency Code Board" has the power and duty to adopt codes and standards for the hardening of structures and mitigating vegetation.

The rules of the board must:

1. Define the WUI – at the request of some counties, there is an exemption for thirty-five acre parcels with only one structure. Additional language has also been added from prior drafts, for the board to consider various practices, such as those in other states, regional differences amongst Colorado, existing model codes and individual risk profiles from the state forest service. (Page 8, line 7-20).
2. Adopt minimum building codes that shall be adopted by local jurisdictions in the WUI – these must:
    - Apply to "new construction of structures or defensible space around structures for construction that substantially remodels a structure or the defensible space around the structure" (page 9, line 5-16).

- Substantial Remodel has been further defined as increasing the footprint by 25% or construction involving the exterior of a structure or attachments to a structure (page 9, line 5-16).
- Not apply to interior alterations of existing structures (page 9, line 15-16).
- Allow for an appeal process to be adopted by the board for governing bodies to petition for code modifications (page 9, line 23-25).

In addition, the board shall continue to identify opportunities to incentivize and support the adoption of more stringent codes (page 10, line 19-22). Except as otherwise provided, the board is not authorized to make or adopt land use policies (page 11, line 6-8). Lastly, in the promulgation of the rules (the WUI definition and applicable codes), the board shall hold hearings for public input and proactively solicit feedback (page 11, line 9-11).

Unlike the 2022 concept, the "Wildfire Resiliency Code Board" does not have explicit enforcement authority; enforcement shall be in accordance with code enforcement by the local governing body. The codes shall be adopted by the local governing body in accordance with local rules or within six months of the codes' adoption by the code board (page 14, line 19-25). The code board is authorized to review a local governing body's codes to determine compliance with their minimum codes (page 14, line 26-27 & page 15 line 1-5).

In an effort to support jurisdictions without building codes, the Division of Fire Prevention and Control is permitted to assist local governing bodies with inspections and code enforcement; much like the division already does for hospitals and schools. (Page 15, line 6-16).

At introduction, the bill was assigned to the Senate Local Government and Housing Committee and its hearing has been scheduled for Thursday, March 16.

Position: No Position
Sponsor(s): Sen. Cutter & Sen. Exum and Rep. Froelich & Rep. Velasco

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Land Use & Natural Resources

Chair: Commissioner Mike Freeman, Ouray County
Vice Chair: Commissioner Matt Scherr, Eagle County
CCI Staff: Reagan Shane

HB23-1234, Streamlined Solar Permitting And Inspection Grants

HB23-1234 creates the Streamlined Solar Permitting and Inspection Grant Program to grant money to local governments to implement free automated permitting and inspection software. This software consists of a web-based portal that implements automated plan review, verifies local code compliance, and issues permits for electric power systems. The state treasurer will transfer $1 million from the General Fund to the program in fiscal year 2022-23, and the money is continuously appropriated.

The bill requires the Colorado Energy Office (CEO) to administer the program and require applicants to demonstrate expected costs to implement automated permitting and inspection software. The CEO must begin to approve applicants no later than June 30, 2024. A grantee must implement the software within 180 days of receipt of grant money and must report the implementation status to the CEO beginning one year after being granted the money and each year thereafter for four years.

Position: Pending
Sponsors: Rep. Brown & Rep. Soper, and Sen. Roberts

HB23-1233, Electric Vehicle Charging And Parking Requirements

HB23-1233 comes from a directive in the Governor's veto letter for HB22-1218: it directed the Colorado Energy Office (CEO) to bring back the piece of the legislation putting requirements for electric vehicle (EV) charging into statute.

Section two responds to that directive by instructing the State Electrical Board to adopt the EV readiness requirements identified by the Energy Code Board in the Model Electric Ready and Solar Ready Code (currently being developed) for multifamily buildings. The State Electrical Board must require compliance starting January 1, 2024. The board may not adopt rules prohibiting the installation or use of EV charging stations unless the rules address a bona fide safety concern.

Sections three and four forbid private prohibitions on EV charging and parking. Under current law, landlords may not "unreasonably prohibit" the installation of EV charging equipment for residential rental property. The bill expands this to forbid unreasonable EV prohibitions on assigned parking spaces, tenant-accessible parking spaces, and commercial rental property, and it requires landlords to allow EV or plug-in hybrid vehicles to park on the premises. Current law also prohibits associations managing common interest communities (i.e., HOAs) from unreasonably prohibiting the installation of EV charging equipment in the units. The bill broadens this prohibition to apply to common interest communities' parking spaces and requires a community to allow EV or plug-in hybrid vehicles to park on the premises.

Local governments currently hold land use authority to designate minimum parking requirements. Sections five, six, and seven require the local government to count:

- Any parking space served by an EV charging station as at least one standard parking space.
- Any van-accessible parking space that is wheelchair accessible and served by an EV charging station as at least two standard parking spaces.

Sections eight and nine prohibit local governments from adopting an ordinance or resolution that prohibits the installation or use of EV charging stations, unless the ordinance or resolution addresses a bona fide safety concern. This is intended to address EV parking/charging prohibitions in parking structures.

Section ten exempts EV charging systems from the levy and collection of property tax.

Section eleven specifies that when federal law no longer prohibits the construction of EV charging systems along interstate highway rights-of-way (which it currently does prohibit), the Department of Transportation may collaborate with public or private entities to develop projects for such construction.

The CEO will also bring forward an amendment clarifying the application of HB22-1362. HB 1362 requires local governments that update their building codes to, at the time of the update, also adopt and enforce an energy code achieving equivalent or better energy performance than the model energy codes. However, complying with changes to the State Electrical Board's electrical code as outlined in this bill – even via adoption by reference – would technically constitute a building code update and would trigger HB 1362 requirements. This was not the intent of HB 1362, so language is being written to clarify that adoption by reference of state electrical code updates would not trigger the energy code updates outlined in HB 1362.

Position: Pending
Sponsors: Rep. Mauro & Rep. Valdez, and Sen. Priola & Sen. Winter

HB23-1232, Extend Housing Toolkit Time Frame

This bill is a cleanup bill for HB21-1271 (Department of Local Affairs Innovative Affordable Housing Strategies). HB 1271 established three programs offering state assistance to local governments to promote the development of innovative affordable housing strategies. These three programs are the Local Government Affordable Housing Development Incentives Grant Program, the Local Government Planning Grant Program, and the Affordable Housing Local Officials Toolkit. Funding for the grant programs was transferred to the Colorado Heritage Communities Fund, to be administered by the Department of Local Government. Funding for the Toolkit was transferred to the Housing Development Grant Fund.

HB23-1232 extends the deadlines by which money transferred for these programs must be expended. Money transferred to the Colorado Heritage Communities Fund must be expended before July 1, 2025, rather than by July 1, 2024. Money transferred to the Housing Development Grant Fund must be expended by July 1, 2025, rather than "over the subsequent three state fiscal years." The bill also clarifies that any funds not expended or encumbered at the end of any fiscal year is available for expenditure without further appropriation until July 1, 2025.

Lastly, the bill clarifies that the Division of Housing may award multiple grants to multiple grant recipients for multiple regional navigation campuses in the Denver metro area to respond to and prevent homelessness.

The bill has been assigned to the House Transportation, Housing & Local Government Committee and its hearing is scheduled for Wednesday, March 15th.

Position: Pending
Sponsors: Rep. McCluskie & Rep. Jodeh, and Sen. Roberts

HB23-1194, Closed Landfills Remediation Local Governments Grant

This CCI-initiated bill addresses the remediation challenges faced by closed local government owned landfills in a couple of ways.

First, it creates a grant program to fund remediation of closed local-government-owned landfills. The grant program will be administered by the Colorado Department of Public Health and Environment (CDPHE) in accordance with rules promulgated by the Solid and Hazardous Waste Commission. Grant applications will be reviewed by an advisory committee made up of two members representing local governments and three members with technical expertise not affiliated with a local government or with the department. Funding priority will be given to applications that concern remediation efforts that address the greatest actual risk to public health and environment and that are subject to existing compliance orders.

Second, it acknowledges in statute the joint responsibility of the state and of local governments to address environmental and public health risks that may result from local-government-owned landfills.

Third, it creates a process for resolving disputes related to remediation of closed local-government-owned landfills. Currently, the only means of resolving disputes is litigation, a process that is expensive and lengthy. This dispute resolution process may be initiated by either CDPHE or the local government and provides an alternative to litigation through a three-person technical committee made up of independent, objective experts. These experts are appointed by CDPHE's Executive Director and must include an individual associated with a local government, an individual with professional experience in environmental remediation of closed landfills, and an individual with experience in public health.

Fourth, the bill designates 50% of compliance penalties issued to this grant fund and states in statute that prior to issuing any such penalties, CDPHE will work with the local government and attempt to resolve disputed issues in a collaborative manner. The bill also creates an automatic moratorium on prospective enforcement mechanisms during dispute resolution, unless there is an emergency requiring immediate action.

Fifth, the Solid and Hazardous Waste Commission is required to promulgate rules concerning the imposition of civil penalties against local governments, requiring CDPHE to consider factors like a local government's application for one of these grants and the good faith efforts of the local government to remedy the violation before issuing a penalty.

We remain in negotiations with CDPHE and expect to identify amendments this week. The bill has been assigned to the House Transportation, Housing & Local Government Committee, and its hearing is scheduled for Wednesday, March 22nd.

Position: Support
Sponsors: Rep. McLachlan & Rep. Pugliese, and Sen. Simpson & Sen. Ginal

HB23-1115, Repeal Prohibition Local Residential Rent Control

HB23-1115 repeals the statutory provisions from HB21-1117 that currently prohibit counties and municipalities from enacting any ordinance or resolution that would control rent on private residential property or a private residential housing unit. As amended, counties and municipalities would have discretion to apply rent controls largely as they sit fit., with two exceptions:

First, any ordinance or resolution that controls rent on private residential property must be uniformly applied. As amended in the House, any such ordinance or resolution may not be applied to any property or units during the 15 years following that property or unit's first certificate of occupancy. Mobile homes and mobile home parks are not included in the 15-year exemption and rent control may be applied regardless of the date built or date of certificate of occupancy.

Second, no such ordinance or resolution for rent stabilization can be applied to housing units provided by nonprofit organizations and regulated by fair market rents published by the U.S. Department of Housing and Urban Development or any other federal or state programs limiting allowable rents.

Second, the rent control ordinance or resolution must not impose a limit LESS THAN the percentage increase in the Consumer Price Index + three percentage points plus + reasonable increase reflective of the actual costs incurred and demonstrated by a landlord in conducting substantial renovations.

The bill has passed the House and has been assigned to the Senate Local Government & Housing Committee, but its hearing has not been scheduled.

Position: Monitor
Sponsors: Rep. Mabrey & Rep. Velasco, and Sen. Rodriguez

HB23-1085, Rural County and Municipality Energy Efficient Building Codes

HB23-1085 would have extended the timeframes during which rural municipalities and counties would be required to concurrently adopt a specified model energy code when updating their existing building codes. It also would have created a provision allowing a rural municipality, defined as a municipality with a population of less than 10,000 people, to adopt a less current model code if it has applied for and not been awarded a grant that significantly assists with energy code adoption and enforcement training. This would have matched the corresponding provision that already exists for rural counties.

This bill was postponed indefinitely in the House Energy & Environment Committee on Thursday, February 23rd.

Position: Support
Sponsors: Rep. Martinez & Sen. Simpson
Final Status: Postponed Indefinitely

SB23-016, Greenhouse Gas Emission Reduction Measures

SB23-016 is composed of 14 sections that take various measures to reduce greenhouse gas emissions in the state. These sections include requiring the public employees' retirement association's board to adopt proxy voting procedures to ensure voting decisions align with and support the statewide greenhouse gas (GHG) emission reduction goals, adding wastewater thermal energy into definitions around clean resources, updating statewide GFG emission reduction goals, giving the oil and gas conservation commission authority over class VI injection wells, and more.

Of the 14 sections, there are four sections on which counties are most focused:

- Section 6: Updates the statewide GHG emission reduction goals and increases the 2050 GHG emission reduction goal from 90% of 2005 GHG pollution levels to 100%.
- Section 7: Gives the Oil and Gas Conservation Commission (COGCC) authority over class VI injection wells for GHG sequestration, subject to sufficiency of state resources. The COGCC may issue and enforce permits accordingly. There are currently no requirements for the issuing of permits to go through local government site approval.
- Sections 10 through 12: Requires the Colorado electric transmission authority to prioritize, "if practicable," project contracts that renovate or recondition existing utility transmission lines. Current law prioritizes contracts that will transmit or store electricity to be sold and consumed in Colorado and prioritizes electric utilities or entities that demonstrate an interest in continuing an existing powerline trail.
- Section 13: Requires a local government to expedite its review of a land use application that proposes a project to renovate, rebuild, or recondition existing transmission lines. "Expedite" is not defined to provide flexibility for local governments.

CCI is grateful for Senator Hansen's incorporation of the following requested amendments:

- Make local land use authority explicit in the reconductoring of transmission lines to enshrine in statute the need for renovation, rebuilding, or reconditioning of transmission lines to go through the local land use application process.
- Add "expedite as practicable" in section 13 to maintain the intent of encouraging local governments to expedite while acknowledging that there are practical constraints limiting how much the process can – or should – be expedited.
- Make local government site approval explicit regarding Class VI injection wells to clarify the authority of local governments in this section and ensure protection of the local government authority to make land use decisions that consider local needs and priorities.

CCI remains interested in discussing state recognition of the importance of supporting local governments as they deal with decommissioning costs of the technology that will be used to achieve the statewide GHG reduction targets.

SB23-016 passed the Senate Finance Committee and will now be heard in the Senate Appropriation Committee.

Position: Amend
Sponsors: Sen. Hansen, and Rep. McCormick & Rep. Sirota

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Public Lands

Chair: Commissioner Jonathan Houck, Gunnison County
Vice Chair: Commissioner Dwayne McFall, Fremont County
CCI Staff: Gini Pingenot

SB23-059, State Parks and Wildlife Area Local Access Funding

SB23-059 will aid the state in helping Coloradoans access over 43 state parks and 350 wildlife areas.

This CCI initiated bill creates a grant program and an optional fee for local governments to help them meet growing visitation demands. In the absence of investing in local roads, bicycle lanes, shuttle operations and other transportation methods local governments support, Coloradoans and visitors alike will be deterred from enjoying the state's treasured resources.

Earlier this year, Colorado debuted its new Keep Colorado Wild (KCW) Pass. At a price point of $29, the KCW is expected to generate as much as **$22 -$55 million** in the first year in revenue, increase visitation and fuel future recreation. Colorado Parks and Wildlife expects **visitation increases between 6 million to 11 million visits per year**, or between 31% and 57% from FY 2020-21 visitation counts.

SB 59 recognizes the important 'value proposition' that consumers make when purchasing a KCW pass. A visitor's entire experience – including the journey to a treasured park or wildlife area – factors into Coloradoan's decisions to purchase a pass. Given the importance of the KCW pass and the promise it holds for the state's ability to keep up with park and wildlife visitor impacts and demand, counties believe that an investment in the infrastructure that helps people arrive at these destinations will help ensure the long-term viability of the pass and the perceived value of it among the public.

The two tools in SB 59 that will help local governments address the operational impacts of helping people physically get to parks and wildlife areas are:

1.) State Park and Wildlife Area Access Grant Program

Once CPW meets its $36m financial goals, 50% of the overflow will flow into a grant program to support access infrastructure leading into parks and wildlife areas.

A grant program supported by KCW funding:
a.) Recognizes the state/local government partnership in supporting the increased access demands that will result from the KCW pass;
b.) Enhances the perceived value of the KCW pass and will encourage continued pass purchases in the future; and
c.) Provide support to state wildlife area access needs.

2.) Local Government Fee Option on Daily Vehicle Passes

Modeled after an existing statute, local governments, in coordination with the Colorado Parks and Wildlife Commission, may request an additional $2 per daily vehicle pass. Funding will be remitted directly to the local government to help them support access routes serving state parks.

CCI's factsheet can be found here.

SB 59 was heard in the Senate Agriculture and Natural Resources Committee on Thursday, February 9. It will be voted on at a later date.

Position: Support (CCI Initiated Bill)
Sponsors: Sens. Baisley & Roberts, Reps. Catlin & McLachlan

SB23-1066, Public Access Landlocked Publicly Owned Land

HB 1066 is frequently referred to as the corner crossing bill. A coroner crossing is created when checkerboard property ownership has two public property catty corner to each other, while the other two properties are privately owned (see below). There has been an issue in the West where hunters cross the corner to go from public land to public land. Under current law, this results in a trespassing offense. This trespass occurs because there is no way to cross the corner without entering the private property owner's airspace, as the point where all the properties meet is too small for a human to cross through.

Public Land	Private Land
Private Land	**Public Land**

Under C.R.S. 41-1-107: "The ownership of space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight of aircraft." . HB 1066 would allow hunters/recreationalist to move over privately owned land without stepping on or standing on the privately owned land to access public lands. The bill states that this action is NOT a trespassing offense.

The vast majority of entities are monitoring HB 1066. CO Trail Lawyers and DNR wish to amend HB 1066. Colorado Farm Bureau, CO Wool Growers and Rocky Mountain Farmers Union are all opposed. Audubon Rockies is supporting.

HB 1066 was heard in the House Agriculture, Water and Natural Resources Committee on Monday, February 27th but was not voted on. Rep. Bradley is working on an amendment to form a task force to examine the issue more fully. HB 1066 will be heard for action only on Monday, March 13th. At that time, committee members will review the bill's amendment.

Position: Oppose
Sponsors: Rep. Bradley

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Taxation & Finance

Chair: Commissioner Richard Elsner, Park County
Vice Chair: Commissioner Bob Campbell, Teller County
CCI Staff: Gini Pingenot

SB23-035, Middle-Income Housing Authority Act

The Middle Income Housing Authority (MIHA) is an independent, special-purpose authority for promoting affordable rental housing projects for middle-income workforce housing. It was created by SB22-232, which gave it the power to make and enter into agreements with public or private entities to facilitate public-private partnerships.

SB23-035 clarifies this power to enter into public-private partnerships by specifying that the *affordable rental housing component* of a public-private partnership is exempt from state and local taxation, including local government property tax and sales and use tax. *Affordable rental housing components,* a new term introduced in SB23-035, would include property and activities that are a part of an affordable rental housing project. This could include a commercial element to a project (which must receive approval by the MIHA and be incidental to the housing component of the project).

It is important to note that local governments must be notified and can object to a proposed project for any reason CRS 29-4-1107 (4). Cities and counties have the ultimate say in whether or not a project can proceed. Some of the reasons why a local government might object to a project include insufficient water and waste water infrastructure, impacts to wildlife, potential wildfire safety concerns (ie located in the Wildland Urban Interface), traffic concerns, etc. MIHA may agree to make payments to a local government in lieu of property or sales and use taxes but is not required to do so. Property that is not part of the affordable rental housing component in a public-private partnership remains subject to all taxation.

The bill also clarifies that a public-private partnership may provide for the transfer of the interest in an affordable rental housing project to an entity other than MIHA; that MIHA may issue bonds to finance the affordable rental housing component in a public-private partnership; and that bonds issued by MIHA may be payable from the revenue and assets of the affordable rental housing component of a public-private partnership or solely from the revenue or assets of MIHA as current law requires.

Additionally, the MIHA board of directors is expanded from 14 to 16 by the addition of two nonvoting members. The senate majority leader and the house majority leader will each appoint a member of the general assembly from their respective chambers, unless the senate majority leader and house majority leader are from the same political party, in which case the house minority leader will appoint the member from the house.

SB23-035 will be heard in the House Transportation, Housing and Local Government Committee on Tuesday, March 14th.

Position: Support
Sponsors: Sen. Bridges & Sen. Moreno, and Rep. Herod

SB23-055, Car Sharing Program Sales Use and Ownership Tax

The Enterprise rental car company was the proponent behind SB 55. The bill was intended to level the playing field – from a tax collection and remittance standpoint – between traditional rental care companies and peer-to-peer car rental platforms like Turo, Get Around, and Drift.

SB 55 would have given the owner of a peer-to-peer vehicle the option to **either** 1.) pay sales or use tax at the time of purchase (current status) or 2.) collect and remit the sales/rental taxes on the rental transaction of the vehicle (and avoid the sales tax on the owner's initial purchase).

The Colorado Department of Revenue (CDOR) issued a private letter ruling on this matter two years ago. That ruling, however, applied to a specific taxpayer who inquired about how their peer-to-peer rental business would be treated from a tax standpoint. You can find that private letter ruling here.

In the private letter ruling, CDOR provides a detailed distinction between the vehicle owner and the company that facilitates the peer to peer rentals. "Company, not the owner, will be regarded as the lessor with respect to vehicles leased through its platform. Company is the party with whom a driver will enter into a contract for the possession and use of the vehicle" (p.3). From here, CDOR concludes that the Company is the lessor of vehicles rented through its platform and the Company must collect and remit all taxes on the rental transaction (short term lease) of a vehicle.

SB 55 was postponed indefinitely in the Senate Transportation and Energy Committee. Despite this outcome, the CDOR still requires and enforces the collection of sales and rental taxes on each peer-to-peer rental transaction.

Position: Amend
Sponsors: Sen. Gardner
Final Status: Postponed Indefinitely

SB23-057, County Treasurer No Longer Ex Officio District Treasurer

Under current law which passed in 1905, irrigation and drainage districts pay a fee ranging between $25 to $100 per year to a county treasurer for financial services. As amended, the bill removes this provision and requires any drainage district utilizing the services of a county treasurer to pay .0025% of the total money received by the county treasurer for assessments levied by the drainage district beginning January 1, 2026.

On average, county treasurers are receiving about $160 collectively from irrigation and drainage districts within the county. The bill increases the amount a county treasurer will receive to provide financial services. A district that performs its financial services internally, without the assistance from the county treasurer, will not incur these increased costs; rather, the district will take on the workload performed formerly by the county.

The majority of irrigation and drainage districts are in Mesa and Weld Counties. SB23-057 is a Colorado Treasurer's Association initiated bill. CCI understands the Treasurers are working on amendments and thus took an 'amend' position to support the Treasurer's work on SB23-057.

SB 57 was amended in the Senate Local Government Committee to the liking of both County Treasurers and the Irrigation and Drainage Districts. It is now before the entire house for consideration on second reading.

Position: Support
Sponsors: Sen. Rich and Rep. Taggart

SB23-108 Allowing Temporary Reductions in Property Tax

SB 108 allows local governments to provide temporary property tax relief through temporary property tax credits or mill levy reductions. The bill also makes it clear that credits can be eliminated and the original mill levy can be restored.

Existing statute is clear that temporary mill levy credits can be used to refund TABOR surpluses. And, while there are some local governments that have also issued mill levy credits for property tax relief purposes, other local governments seek clarity and assurance that this is an allowable move under TABOR. SB 108 provides this clarity.

SB 108 was amended to exclude a school district from lowering its total program mill levy below the minimum amount set in state statute and to make it clear that a temporary reduction in property taxes due for the purpose of property tax relief is subject to annual renewal.

SB 108 is waiting to be assigned to a house committee for its first hearing in the house.

Position: Support
Sponsors: Sen. Baisley and Rep. Pugliese & Rep. Frizell

SB23-175, Financing of Downtown Development Authority Projects

SB 175 modifies some functions of Downtown Development Authorities (DDA). DDAs currently exist in 8 counties: Boulder, El Paso, Garfield, Gunnison, Larimer, Mesa, Teller and Weld. The original inception of a DDA requires a vote of qualified electors. DDAs can exist for 30 years with an option to extend their existence for another 20 years.

SB 175 will allow the Board of the Authority, pursuant to an IGA with the municipality, to issue bonds and incur loans or indebtedness. The bill also provides for automatic and re-occurring 20 years extensions after the 50 year duration has concluded. This perpetual existence will happen unless the governing body of the municipality opts out of the automatic extension.

SB 175 keeps the same financing structure in place that currently exists in the existing 20-year extension period. On the first day of the 20 year extension, the 'base year' for assessed valuation purposes is advanced forward by 10 years. After the first 10 years of the 20 year extension, the base year is advanced forward by one year for each additional year through the completion of the 20 year extension. Additionally, for the entirety of the extension, 50% of property taxes levied (or such greater amount as may be set forth in an agreement negotiated by the municipality and the respective public bodies) shall be paid into the DDA's fund and the balance goes back to the other public bodies for which taxes are collected.

Position: Pending

Sponsors: Sen. Jaquez Lewi & Sen. Rich, and Rep. Boesnecker & Rep. Taggart

HB23-1017, Electronic Sales and Use Tax Simplification System

The Sales and Use Tax Simplification System (SUTS) was launched in the spring of 2020 with two primary goals: 1.) ease sales tax filings and remittance for retailers and 2.) appeal to home rule municipalities to voluntarily join which in turn would ease the sales tax compliance expectations of retailers.

HB 1017 originates from the Sales and Use Tax Simplification Task Force, an interim committee that met last fall to develop this bill. The bill creates a 'to do' list of system upgrades that the Colorado Department of Revenue must onboard no later than January 1, 2025.

Some of these upgrades include:

- Notification to a local taxing jurisdiction when a change has been made to an account or when the account has been closed;
- Creating a simplified process for filing a zero return (occurs when a retailer has little to no retail activity during a filing period);
- Inclusion of use taxes;
- Requirements that a retailer register with a local taxing jurisdiction in which taxes are due before using SUTS; and
- Prohibiting a retailer from filing a return in SUTS unless the retailer has the correct local number on the account.

The bill also prohibits CDOR from charging a fee for payments made through SUTS, creates a campaign to promote the use of SUTS among retailers and local taxing jurisdictions, and tasks CDOR with soliciting feedback from stakeholders about needed SUTS enhancements (an activity the department has already been doing for several years.).

HB23-1017 passed the House Finance Committee and is waiting to be heard in the House Appropriations Committee. The bill has a roughly $7 million general fund obligation for fiscal year 2023-2024 and is expected to be amended at some point in the legislative process to reduce the state's general fund obligation (most likely through a prioritization of the upgrades listed in the bill).

Position: Support
Sponsors: Rep. Kipp & Rep. Bockenfeld, and Sen. Bridges & Sen. Van Winkle

HB23-1054, Property Valuation

HB 1054 proposed a series of property valuation changes and would have limited the increase in local growth (and thus property tax revenues) in the 2023 property tax year (payable in 2024), created a one-time change impacting which assessment cycle will be used for the notice of valuations that will be sent to property owners this spring and revised the multi-family assessment rate for the 2024 property tax year (payable in 2025).

To see a visual of all of the proposed changes HB 1054 would have created and how those would have interacted with legislation that passed in the last two years, click here.

Position: Monitor
Sponsors: Rep. Frizell and Sen. B Pelton
Final Status: Postponed Indefinitely

HB23-1091, Continuation of Child Care Contribution Tax Credit

HB 1091 continues the availability of the child care contribution tax credit (CCTC) for 3 more years. This income tax credit is currently set to expire after the 2024 income tax year. HB 1091 will allow donors to claim it for the 2025, 2026 and 2027 income tax years. It also expands the credit to cover in-kind real property, equipment and services donations.

The CCTC is a 50% tax credit up to $100,000 for donations made to child care, early childhood grant programs, foster care, youth shelters, residential treatment centers, before and after school programming and grant programs to help families afford child care.

In income tax year 2020, taxpayers claimed 16,850 child care contributions credits worth an aggregate $28.4 million. Given the value of the credit is limited to $100,000, the fiscal note does not anticipate that many real property contributions will occur. Because the state is anticipated to generate revenue above its TABOR cap through FY 2024-25 ($1.37 billion projected in revenue above the TABOR Cap in SFY 2024-25 – refunded in SFY 25-26), the CCTC will reduce the amount of revenue available to refund through other mechanisms.

HB 1091 unanimously passed the House Finance Committee and is waiting to be heard in the House Appropriation Committee. This hearing will likely happen sometime after the state's budget for SFY 23-24 has been approved (late March/early April).

Position: Support
Sponsors: Rep. Pugliese & Rep. Kipp, and Sen. Marchman & Sen. Rich

HB23-1113, County Impact Notes by Legislative Council

HB 1113 would have created a new county impact note product that would be produced by Colorado Legislative Council if requested by the Legislature. This product would have been in addition to the current practice Legislative Council employs now through their routine solicitation of local government feedback on bills that impact counties. Under HB 1113, up to 20 county impact notes could have been requested each year by the Legislature. This concept is similar to the demographic notes and the greenhouse gas notes that passed in 2019.

This bill was partly in response to two bills that passed last year impacting the Colorado Temporary Assistance to Needy Families program (HB22-1259) and collective bargaining for counties (SB22-230). Proponents saw the benefit of having a 'deep dive' analysis into county operational impacts as a helpful way to create greater understanding among legislators of county resource challenges.

HB 1113 was postponed indefinitely in the Transportation, Housing and Local Government Committee on Tuesday, February 14th.

Position: Amend
Sponsors: Rep. Hamrick & Rep. Frizell

Final Status: Postponed Indefinitely

HB23-1184, Low Income Housing Property Tax Exemptions

HB 1184 makes several modifications to what has been known for years as the 'Habitat for Humanity' statute. Originally adopted in 2011, this provision of statute allows non-profit housing providers (a term narrowly defined to really only mean Habitat for Humanity) to acquire real property and maintain its property tax exempt status for 5 years. This has allowed Habitat for Humanity the ability to plan and execute developments without triggering a property tax liability. There is a 'claw back' provision in the event that the land is sold to an entity/person who doesn't meet the strict definition of a non-profit housing provider.

HB 1184 extends the amount of time Habitat can hold on to real property without any construction activities occurring from 5 to 10 years. Additionally, the bill changes the definition of low-income applicant from 80% AMI to 100% AMI beginning in January 2024.

Additionally, HB 1184 creates a new property tax exemption for land trusts and non-profit homeownership developers. This new exemption would apply to the land and NOT the improvement/dwelling. In order to qualify for the exemption, the dwelling on the land must have a deed restriction or some other price control in place, is sold to a household who at the time of purchase is at or below 100% AMI and is intended by the purchaser to be used as a primary residence. Currently land trusts can secure a property tax exemption but they MUST work with a housing authority. Since housing authorities are governmental entities (and thus exempt from property taxation), land trusts have partnered with them in order to secure an exemption. This provision of HB 1184 will allow land trusts and non-profit homeownership developers to secure the exemption on their own.

To access a Q&A on this policy between CCI and Habitat for Humanity, click here.

CCI supported the amendment to increase the allowable AMI for rural resort counties to at or below 120%. Additional amendments to safeguard the new exemption for land trusts from potential abuse were developed by Commissioners Elsner, Pogue, Niece and Campbell Swanson. These amendments require Community Land Trusts and Nonprofit Affordable Homeownership Developers to adhere to the same application requirements as all other charitable entities must follow. They also add a claw back provision in case the land is sold off and the affordable homeownership property no longer meets the criteria for an exemption. Finally, a small clarification was added to require that homes are sold to those who make the house their primary residence. This will help to avoid short term rental activity.

CCI's amendments have been adopted. HB 1184 is currently waiting to be heard in the House Appropriations Committee.

Position: Amend
Sponsors: Rep. Lindstedt & Rep. Frizell, and Sen. Roberts

COLORADO COUNTIES, INC.
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Tourism, Resorts & Economic Development

Chair: Commissioner Richard Cimino, Grand County
Vice Chair: Commissioner Jeanne McQueeney, Eagle County
CCI Staff: Reagan Shane

HB23-1190, Affordable Housing Right of First Refusal

HB23-1190 creates a right of first refusal for local governments to match an acceptable offer to purchase multifamily developments for the purpose of providing long-term affordable housing. The local government may assign its right of first refusal to the state, to any political subdivision, or to any housing authority so long as that entity makes the same commitment to using the property as long-term affordable housing.

Long-term affordable housing is defined as housing for which the annual rent for any unit in the qualifying property does not exceed the rent for households of a given size at the applicable AMI (80% AMI for urban, 120% AMI for rural, 140% AMI for rural resort) for a minimum of 100 years, and where the local government agrees not to raise rent for any unit by more than the rent increase cap. A "qualifying property" is a multifamily residential or mixed-use rental property consisting of five or more units in urban counties and three or more units in rural or rural resort counties; mobile home parks are not qualifying properties.

The bill requires the seller to give notice to local governments when they intend to sell a qualifying property. As amended, it requires the local government to give notice to the seller within 14 calendar days and to residents of the property if they use its right of first refusal. As amended, the local government must make an offer within 60 calendar days and close within 120 calendar days. The local government may waive its right of first refusal at any time or if a third-party buyer interested in purchasing the property with the same commitment to long-term affordable housing enters into an agreement with the local government concerning that commitment.

A property acquired via this right of first refusal may be converted to another use after 50 years if the following are fulfilled:

1. Notice is given to residents prior to the conversion;
2. Any displaced residents are provided with compensation for relocation; and
3. The purchaser who committed to providing long-term affordable housing guarantees the development or conversion of an equal or greater number of units within the boundaries of the local government for long-term affordable housing and offers the units first to any residents displaced by the conversion of the property.

The bill allows for the following sales or transfers of property to be exempt from the right of first refusal: to a family member or trust with family member as beneficiary (legally recognized – spouse, first cousin, child, etc.); to, if wholly owned by seller, a partnership, LLC, or corporation; pursuant to a will, descent, or interstate distribution; pursuant to an action in eminent domain; to the state or to a local government;

pursuant to a court order; between joint tenants or tenants in common; qualifying properties for which a preexisting agreement giving a ROFR to a third party at the time the bill goes into effect.

As requested by the Land Title Association of Colorado and thus amended, if a court finds that a residential seller has made a misrepresentation in its affidavit certifying that it has complied with relevant requirements, the sole remedy available is against the residential seller. Additionally, if a court finds that a residential seller or third-party buyer has entered into an agreement with the local government to provide long-term housing and violates that agreement, the court shall award a penalty of not less than $50,000 or an amount equal to 30% of the purchase of listing price, whichever is greater.

CCI is engaged in ongoing discussion with the bill sponsors and other stakeholders on shortening the timeline outlined in the bill. CCI was supportive of amendments adopted in committee to clarify various definitions and incorporate electronic notification delivery.

HB23-1190 passed the House and has been assigned to the Senate Local Government & Housing Committee, but its hearing has not been scheduled.

Position: Amend
Sponsors: Rep. Boesenecker & Rep. Sirota, and Sen. Winter

SB23-006, Creation of the Rural Opportunity Office

The Rural Opportunity Office in the Office of Economic Development and International Trade (OEDIT) was created in 2019 to support Colorado's rural partners and communities by connecting them to relevant programs within OEDIT, in that way facilitating cross-division collaboration with OEDIT. The office also supports Colorado's rural partners and communities by connecting them to other state, federal, nonprofit, and private partner agencies and organizations.

SB23-006 codifies the Rural Opportunity Office in OEDIT, making it more permanent in law. The bill outlines the responsibilities of the office as follows:

- The office will serve as Colorado's central coordinator of rural economic development matters and will provide support and coordination with other state agencies and programs dealing with rural economic development matters.
- It will work with coal transitioning communities to explore unique business and economic development opportunities.
- It will make recommendations that inform the governor's policy on rural economic development matters.
- It will measure the success of program outreach and conduct research to determine whether rural communities receive more statewide funding as a result.

SB23-006 passed the Senate Business, Labor, & Technology Committee unanimously and is waiting to be heard in the Senate Appropriations Committee.

Position: Support
Sponsors: Sen. Roberts & Sen. Rich, and Rep. McLachlan & Rep. Catlin

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Transportation & Telecommunications

Chair: Commissioner Jim Candelaria, Montezuma County
Vice Chair: Commissioner Chris Richardson, Elbert County
CCI Staff: Eric Bergman

HB23-1051, Support for Rural Telecommunications Providers

HB 1051 extends for one year a direct distribution of High Cost Fund dollars to a number of rural telecommunications providers around the state. The bill aligns the sunset date for this direct distribution with the larger programmatic sunset review of the High Cost Fund Support Mechanism and Broadband Deployment Board that will occur in 2024. The bill has been sent to the Governor for signature.

Position: Support
Sponsors: Rep. Lukens & Rep. Holtorf, and Sen. Roberts & Sen. Pelton R.

HB23-1101, Increasing Flexibility for the Ozone Season Transit Grant Program

As introduced, HB 1101 would have provided flexibility for transit agencies to designate different "ozone seasons" for purposes of offering free transit using grant funds from the Ozone Season Transit Grant Program (something that CCI actually proposed last year when the grant program was created). The bill also adds a representative from a regional transit agency to the membership of each Transportation Planning Region. The bill was amended in the Senate to require the Transportation Commission to adjust the boundaries of the Transportation Planning Regions (TPRs) to ensure that the state's population is proportionately represented. This concept was not stakeholded with the Statewide Transportation Advisory Committee (STAC) or the TPRs themselves.

When the bill came back to the House for concurrence with the Senate amendment, rural communities raised concerns about the lack of notification and potential impacts on funding for rural transportation infrastructure. CCI has learned that the House will vote to **not** concur with the Senate amendment, and that the bill will be sent to a conference committee where the amendment in question will either be stripped or altered to protect rural communities.

Position: Pending
Sponsors: Rep. Vigil & Rep. Bacon, and Sen. Winter F. & Sen. Hinrichsen

SB23-183, Local Government Provision Of Communications Services (Repeal of SB05-152)

SB 183 removes from the statute the requirement that counties and municipalities must receive voter approval before they may expend public funds on broadband infrastructure for middle mile or last mile connectivity. This requirement was put in statute back in 2005 by SB05-152. Since the bill's enactment, more than 40 counties have successfully passed ballot measures to remove the statutory prohibition on local broadband activity. SB 183 preserves local government authority to deliver broadband services and should streamline broadband connectivity around the state.

Position: Pending
Sponsors: Sen. Priola & Sen. Baisley, and Rep. Titone & Rep. Weinberg