COLORADO COUNTIES, INC.
Educate · Advocate · Empower

Legislative Report | March 27, 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

As introduced, 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.

The bill was amended in House Judiciary to *require*, not allow, the court to award attorneys' fees to the prevailing plaintiff. The bill was also amended to cap these emotional damages at over $300,000. As amended, the bill passed out of committee on a 7-6 vote.

CCI and other stakeholders have continued to advocate for a more equitable approach to these discrimination cases that balances the rights of the disabled community and potential liability for business and government. A strike-below amendment has been negotiated with the bill proponents and will be offered on the House floor when the bill is heard on second reading. The amendment will remove the attorneys' fees provisions and scale back the damages to actual monetary damages.

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: Monitor
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, Montezuma, Pitkin, Routt, 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 signed by the Governor this past week.

Position: Support
Sponsors: Rep. Martinez, and Sen. Simpson
Final Status: Signed by Governor

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.
Final Status: Postponed Indefinitely

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
Final Status: Postponed Indefinitely

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 to an employee by a vendor or contractor.

The bill was amended on second reading in the Senate this past week. The amendments protect anonymity of an employee and maintain confidentiality for property sales negotiations, confidential labor relations information and vendor lists and preferences.

Position: Amend
Sponsors: Sen. Kirkmeyer & Sen. Rodriguez and Rep. Evans & Rep. Woodrow

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 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
Final Status: Postponed Indefinitely

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. While CCI strongly supports the establishment of respectful work environments for its employees, commissioners are seeking some amendments to the bill that balance workplace protections with increased employer liability concerns.

The bill is awaiting a hearing in the Senate Judiciary Committee. Stakeholders have been working with the bill proponents on amendments to the bill.

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

COLORADO COUNTIES, INC.
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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

HB23-1024, Relative & Kin Placement of a Child

HB23-1024 adds to statute several provisions regarding relative and/or kin placements for a child who has been temporarily placed out of home. Most significantly, it adds to statute that the best practice/presumption is for children to be placed with a relative or kin (a family-like individual, such as a teacher), unless the child's health or safety would be jeopardized by that placement. If the county department cannot find a relative or kin and the child needs to go to out of home placement, the county department should continue to search for relatives or kin.

In addition, the bill gives relatives and kin increased legal rights in child welfare cases; including granting relatives and kin the right to appeal a decision to deny them placement. County departments are also required to make reasonable efforts to place and keep children with relative or kin placements; reasonable efforts include offering services and supports, within existing available resources.

Lastly, the bill limits foster parents and kin from intervening unless the child has been placed with them for twelve or more months. (For example, if a child has been placed with a foster parent for eight months and then the court decides to permanently place the child with an uncle; those foster parents may not intervene in that placement decision).

County Attorneys developed several amendments, which have been adopted onto the bill in its House Committee hearings. The amendments will provide a focus on the child's mental, physical and emotional needs; ensure reunification of the family remains the focus of proceedings; remove the reasonable efforts standard for county departments, while ensuring departments work to identify and engage relatives and kin; and additional language for further clarifications and to maintain consistency.

CCI's requested amendments were adopted in its House Committee hearing; the bill has passed the House and will next be heard by the Senate Health & Human Services Committee on April 5.

Position: Monitor
Sponsor(s): Reps. Gonzales-Gutierrez & Epps, Sen. Exum & Van Winkle
Staff: 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.

CCI's requested amendments were adopted in the House Committee hearing; it has now been introduced in the Senate and the Judiciary Committee will hear the bill on Wednesday, April 12.

Position: Monitor
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.

Position: Support (CCI Initiated Bill)
Sponsors: Rep. Lindsay & Rep. Pugliese, and Sen. Ginal & Sen. Rich
Final Status: Signed by 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.
As amended, HB 1142 requires 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.

HB 1142 is waiting to be heard on second reading in the house.

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

HB23-1160, Colorado Trails System Requirements
As introduced, HB 1160 made 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 would have limited the release of reports of child abuse and neglect for employment purposes until after the appeals process has been exhausted.
As amended, HB 1160 will allow for more in-depth conversations to occur in a task force setting through December 2024. The task force, convened by the Child Protection Ombudsman, will examine best practices for ensuring due process, identify processes that will help facilitate communication between the county and persons found responsible for abuse and neglect and explore whether certain findings – based on their severity – should be reportable to the narrow group of employers who receive this information now when they run a background check.

Additionally, the amended bill ensures the notification to a person with a founded finding that they: 1.) have such a finding in TRAILS and what their appeal options are (this happens currently pursuant to rule); and 2.) that those with current counsel via the Office of Respondent Parent Counsel and the Office of the Child's Representative can use that counsel for an appeal.

HB 1160 is waiting to be heard in the House Appropriations Committee.

Position: Monitor
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 will remove the ability of pharmacy benefit managers (PBMs – think Express Scripts (owned by Cigna), CVS Caremark (also owns Aetna) and Optum RX (owned by UnitedHealth Group) 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. And, over time, due to vertical integration, many of the PBMs have been purchased by the insurance companies themselves.
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 were opposed to 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). Those provisions have been removed from the bill.
HB 1201 was amended to 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 is waiting to be heard in the House Appropriations Committee.

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.
CCI is seeking amendments that will ensure the regional subcommittees of the BHASOs are created in a 'bottom up' type fashion and influenced by communities. Additionally, CCI is seeking resources for the regional subcommittees so that they can function as envisioned and elevate issues of concern to the BHASO.

HB1236 will be heard on Tuesday, March 28th in the House Public & Behavioral Health & Human Services Committee.

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

HB23-1249, Reduce Justice-involvement for Young Children

HB1249 is the return of a concept from 2022 (HB22-1131). In 2022, the bill was amended to a task force to review the impacts to services from changing the minimum age of prosecution from 10 years old to 13 years old. Last year, CCI was opposed to this bill until it was amended into a task force. Governor Polis issued this signing statement with the bill, stating that a recommendation on increasing the minimum age of prosecution should come from the Colorado Commission on Criminal and Juvenile Justice (CCJJ). The 32-member Pre-Adolescent Services Task Force created in the amended bill, issued this report in February. While their report recommends "expanding and better utilizing current programs and services before creating any new systems of support", it does not specifically make a recommendation regarding local collaborative management programs (CMP).

Like 2022's introduced bill, this bill increases the minimum age of childhood prosecution from 10 to 13 years old; the only exemption being for homicide [multiple sections]. Sixteen other state's have a minimum age of 10, including Colorado; two other state's have a minimum age of 13 [view other state's minimum ages, exemptions and approaches here]

In addition, it removes the provision allowing twelve or thirteen year olds from being transferred from juvenile to district (adult) court; so only those individuals fourteen and over can be transferred to district court. [Section 18]

It is worth noting that existing law limits the detention of 10–13-year-olds to those with felonies or specific weapons charges, as described in C.R.S. §19-2-508.

When law enforcement has contact with a 10 – 12-year-old and determines there is probable cause they committed an act that would otherwise be a misdemeanor or felony (except murder), the officer shall complete an information form and provide a copy to the child, their parent/guardian, and the CMP. If a victim is involved, the law enforcement officer shall also provide a copy to the victim. [Section 15]

Under the bill, each county is required to have or be part of a CMP and provide services and supports to referred 10–13-year-olds. [Section 23] Learn more about CMPs existing functions here. The bill makes additional administrative changes to CMPs, which are described below.

CMPs must create at least one individualized service and support team (ISST) which can refer a child to services, establish a service and support plan, and must review all referrals to the CMP.

In addition to law enforcement, other agencies including a school, family resource center, child advocacy center, county department of human services, and mandatory reporters may complete the 'information form' and refer 10–12-year-olds to a CMP.

For victims under 13 years old, the information form may be used to refer the victim to a CMP. If the victim is over 13 years old, the CMP shall refer them to the appropriate victim's services coordinator.

The ISST shall create an initial plan for every child referred. The plan may indicate no services are necessary, that one or more services are necessary or that a team meeting must occur prior to developing a plan. If the child committed behavior that would otherwise be a crime of violence or unlawful sexual behavior, the ISST is required to hold a meeting and develop a plan.

If a 10–12-year-old is referred to a CMP three or more times over the course of twelve months, then the ISST is required to hold a meeting and develop a plan.

Before the ISST creates its initial plan, it is required to contact the victim, notify them that the ISST is creating a plan, and allow the victim to provide input. After the ISST creates the initial plan, the ISST shall contact the victim, inform the victim that a plan has been created and share whether the child or their family has been referred for services. However, the ISST's plan for the child and family is confidential.

If the ISST determines that a child or family member is not "substantially participating" the ISST shall consider whether participation is within the child or family's capacity and provide additional resources necessary to address the barriers to participation. After this step, if the ISST still believes the child or family is not "substantially participating", then the ISST shall hold a meeting with the county department of human services. While the family must receive sufficient notice of the meeting, the meeting may occur without the child or their family.

During the meeting, the county department of human services shall determine whether to continue providing prevention and intervention services or whether to conduct an assessment or investigation. The bill describes a series of considerations for the vulnerability of the referred child and victims (described on page 30, line 19-27 through page 31, lines 1-26).

If the child or family is not substantially participating, then the ISST must again contact and notify the victim and provide them with an opportunity to respond to the ISST. [Section 24]

For 10–12-year-olds that fail to comply with a protection order; that child will be referred to a CMP and a meeting shall occur. If the violation occurs at school, a representative from the school must participate in the meeting; otherwise, the county department of human services must participate and decide whether to continue with a treatment services plan or to conduct an assessment/investigation. If the protection order is violated three or more times, two or more child welfare staff shall decide whether or not to reject an assessment. [Section 8 & 9]

The bill also requires the Sex Offender Management Board (SOMB) to develop best practices to provide therapy to 10-12-year-olds who have engaged in problematic sexual behavior. These materials and training must also be available in schools. [Section 11]

CMPs will still be subject to an annual external evaluation, but the bill removes the performance-based measures currently utilized for CMPs. [Section 23 & 25]. The state department of human services may provide oversight to the CMPs, such as strategies to address the needs of 10-12-year-olds who come into contact with law enforcement. The state department will continue to provide technical assistance to CMPs and by rule create the 'information form' that refers children to CMPs and a time frame for referrals, finalizing and sharing plans, & commencing a meeting. [Section 25]

The state department of human services is already required to submit a report of CMPs each year; the bill adds data collection requirement on the children served, their age, and outcomes. [Section 27]

The existing cash fund that provides funding for CMPs will no longer be performance or incentive based. The formula to share funds will instead be re-developed by the state department of human services and must provide an annual sum to each CMP. [Section 28]

The Colorado Human Services Directors Association (CHSDA) has already generated these questions and concerns regarding the bill, which CCI has shared with the bill's sponsors and proponents (Healthier Colorado and the American Civil Liberties Union).

The bill was assigned to the House Judiciary Committee and its hearing has not yet been scheduled.

Position: Pending
Sponsor(s): Rep. Armagost & Rep. Gonzales-Gutierrez and Sen. Coleman & Sen. Simpson
Staff: Katie First

SB23-039, Reduce Child & Incarcerated Parent Separation

This bill addresses the involvement of 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.

A series of amendments were adopted in the Senate Appropriations Committee at the request of CCI and counties to create guardrails and mitigate concerns with the bill, which will: maintain a child focus throughout the process, not create new appellate issues during cases, mitigate extra burdens on county caseworkers, and acknowledge the complications of carceral settings that may impact the dependency and neglect case. These amendments and further described below.

The bill creates a "right to appear" for parents in dependency and neglect cases; the CCI amendment allows the hearing to proceed if the parent is not present.

The amendment also removed portions of the bill that require an entirely new, updated treatment plan for incarcerated parents and made a series of edits to the related sections.

Caseworkers will still be required to involve an incarcerated parent in the planning and services for their child; however, that is now triggered by the caseworker's knowledge of the parent becoming incarcerated and the caseworker shall document these efforts.

"Family time" (previously referred to as visitation) is no longer required to occur in person if it is not reasonably practicable; in that case, the caseworker and the carceral facility shall communicate regarding the facility's ability to facilitate virtual family time.

For incarcerated parents, upon the caseworker's knowledge of incarceration, the caseworker shall include with the treatment plan, a report (as opposed to a brand-new plan) of the available services and treatments available in the carceral facility or the caseworker's efforts to obtain that information.

For parents who have been "continuously incarcerated", it has been amended so that the report of treatment and services will be provided at the next scheduled hearing, as opposed to scheduling an additional hearing. CCI also increased the time frame of "continuous incarceration" to 35 days, from 28 days, again triggered by the caseworker's knowledge of incarceration (the 35-day window is more consistent with other timeframes for dependency and neglect hearings).

The bill continues to remove "long term confinement" as a reason to terminate parental rights. However, the amendments removed a portion of the bill regarding the parent's ability to comply with the treatment plan for consideration.

In determining a placement for a child whose parent has been incarcerated, the primary consideration shall be the child's mental, physical, and emotional needs. The court shall also consider if the parent has maintained a meaningful relationship with their child and if the proposed placement would allow for a meaningful relationship to continue. In considering meaningful relationships, the court shall primarily consider the child's mental, physical, and emotional needs and the child's best interests. However, the parent's incarceration cannot be the sole reason for the placement to not be in the child's best interests. The court shall also consider the parents' efforts to comply with the treatment plan in making this determination.

Upon agreement with the County Sheriffs of Colorado (CSOC), an adopted amendment will require the Sheriff to designate an existing staff member in the jail, who is responsible for communicating with the human services department to help facilitate with communication and family time between incarcerated parents and their children who are subject to a dependency and neglect case. The bill makes a similar requirement to a staff member with DOC.

The bill has passed the Senate and awaits introduction in the House.

Position: Monitor
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 covers 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 perform 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

SB23-210, Update Administration of Certain Human Services
SB 210 makes a series of modifications to various boards and commissions throughout state departments. One of the predominate changes is allowing those who serve to receive compensation for doing so, when appropriate.
The policy change that will interest counties pertains to the citizen review panels. Interestingly enough, the policy change in SB 201 is one that some counties have sought/requested CCI to initiate in past years. Specifically, the bill will allow those with grievances concerning the conduct of county department personnel in performing child welfare duties to either: 1.) continue to file a complaint with the county; 2.) direct complaints to the Child Protection Ombudsman OR 3.) pursue both processes.
Citizen Review Panels were created in 1994, before the 2016 creation of the Child Protection Ombudsman. The Panels are limited in the actions that they can take (social worker reassignment of a case, training or discipline). Counties struggle to convene the panels, their scope is too limited and over the years, their utility has been questioned. (Click here to see available annual reports of complaints and actions that have been taken via Citizen Review Panels).
SB 210 maintains the option for a citizen to either use a county Citizen Review Panel, the Child Protection Ombudsman or both. It also tasks CDHS with adopting implementation rules that will help the panels function better and be more relevant.

SB 210 will be heard in the Senate Health and Human Services Committee on Wednesday, April 5.

Position: Pending
Sponsors: Sen. Exum
Staff: Gini Pingenot

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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

As amended in committee, HB23-1075 requires the state Office of Emergency Management to conduct a study of the efficacy and feasibility of integrating evacuation and clearance time modeling into emergency management plans.

It has passed committee and awaits a hearing with the House Appropriations Committee.

Position: Monitor
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.

Next, the bill will be heard in the Senate Judiciary Committee on, Monday, April 17.

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 courts. 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 Senate and is headed to the Governor's desk to be signed into law.

Position: Monitor
Sponsor(s): Rep. Woodrow & Rep. Bockenfeld and Sen. Rodriguez & Sen. Gardner
Final Signature: Awaiting Governor's Signature

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

As introduced, 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 and be required to provide emergency text alerts in Spanish: 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. Arapahoe and Morgan counties may be required to provide the emergency text alerts in an additional language.

If your county meets this threshold for multilingual emergency text alerts, please contact Katie First (kfirst@ccionline.org) to let her know if your county is already offering this or if they have the ability to.

County commissioners have requested the study also look into the efficacy of utilizing artificial intelligence for live interpretation and translations of 911 calls. In addition, they have requested a county's state and/or federal prison population to not be considered in population thresholds. Further, they believe that the results of the study should be complete and fully considered before mandating multilingual text messages.

CCI staff expects the bill to be amended in committee to remove the mandate and direct the study to make a recommendation on how multilingual text alerts and live interpretation for 911 agencies could be implemented by July 1, 2024. This amendment will be presented during its committee hearing on Monday, March 27 in the House State, Civic, Military & Veterans Affairs Committee.

Position: Amend
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).

The bill has passed its Senate Committee hearing and next will be heard by the House Appropriations Committee.

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

HB23-1255, Regulating Local Housing Growth Restrictions

Currently, several local governments have laws restricting the growth of housing. This includes one county, which has limitations on 35-acre subdivisions. HB23-1255 creates a state preemption and prohibition on local laws that limit the number of building permits issued for development (i.e., local housing growth restrictions), both existing and future. There is an exception if the local government has experienced a declared disaster emergency, in which case the local government may enact a temporary anti-growth law effective for no more than one year after the declaration of the emergency.

The bill has been assigned to the House Transportation, Housing & Local Government Committee. Its hearing has not been scheduled.

Position: Pending
Sponsors: Rep. Lindstedt & Rep. Dickson, and Sen. Gonzales

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 requires 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. As amended, a grantee is encouraged to implement the software within 180 days of receipt of grant money. Grantees must also report the implementation status to the CEO one year after being granted the money and are encouraged to continue to do so each year thereafter for four years.

CCI is interested in better understanding how the software would work in conjunction with existing software and whether the software implemented through the grant is limited to implementation of one specific software (as opposed to a variety of software options and add-ons).

The bill passed the House Energy & Environment Committee and is now scheduled to be heard in the House Appropriations Committee, on Thursday, March 30th.

Position: Amend
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.

CCI has a few concerns it's keeping an eye on. These concerns include the nature of the requirement to follow rules that are still in rulemaking, the potential impact on affordable housing, and the effect in rural counties where infrastructure isn't ready yet.

The bill has been assigned to the House Energy & Environment Committee and its hearing is scheduled for Wednesday, April 5th.

Position: Monitor
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 (the Local Government Affordable Housing Development Incentives Grant Program, the Local Government Planning Grant Program, and the Affordable Housing Local Officials Toolkit) offering state assistance to local governments to promote the development of innovative affordable housing strategies. 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.

Additionally, HB22-1378 directed the Division of Housing to aware a grant to local governments in the Denver metro area or a community partner in conjunction with a local government to build, acquire, and facilitate a regional navigation campus. As written, the bill only allows awarding of ONE grant. HB23-1232 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 passed the House and has been assigned to the Senate Local Government & Housing Committee. Its hearing has not been scheduled.

Position: Support
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.

The bill has been assigned to the House Transportation, Housing & Local Government Committee, and its hearing is scheduled for Wednesday, March 29th.

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, and (through amendments passed in the House) it sets guidelines for the enactment of rent control. The bill explicitly permits a local government to have or adopt an ordinance or regulation that is expressly intended and designed to increase the supply of affordable housing.

Rent control must be uniformly applied among all renters that are similarly situated and among all private residential properties and private residential housing units that are similarly situated, except that:

- For 15 years from the date on which the first certificate of occupancy was issued, no rent control may be applied. (This exception does not apply to mobile home parks, for which rent control may be applied regardless of the date built or date of the certificate of occupancy.)

- No rent control may 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.
- 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 increases reflective of the actual costs of demonstrated 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 and 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, where its hearing remains to be scheduled.

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

SB23-213, Land Use

SB 213 is an omnibus land use bill that attempts to increase the availability of affordable housing stock in urban areas by allowing the construction of accessory dwelling units (ADUs) and duplexes, triplexes and fourplexes as a use by right, if adequate infrastructure is present. The bill also seeks to increase the amount of workforce housing in certain rural resort regions. The bill's housing requirements are largely applicable only to municipalities, but there are some planning aspects in the bill that apply to county governments. Under the legislation, counties are required to adopt a master or comprehensive plan – but they are allowed to decide locally if that plan is advisory or regulatory in nature. Urban counties will have to include additional elements like water sufficiency and greenfield development in their plans. The bill also prohibits any local government from enacting or enforcing residential occupancy limits that differ based on the relationships of the occupants of the dwelling. The bill has been assigned to the Senate Local Government & Housing Committee but will not be heard until after the Long Bill has been passed by the Senate.

Position: Pending
Sponsors: Sen. Moreno, and Rep. Jodeh & Rep. Woodrow
Staff: Eric Bergman

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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.

This CCI initiated bill creates 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.

Visitation to Colorado's State Parks have increased over the last several years. Part of this is due to COVID, a growing awareness of the mental health benefits associated with being outdoors and new programs, like the Keep Colorado Wild (KCW) Pass. And while increased visitation is an exciting proposition for the state and residents alike, it isn't without its shortcomings. SB23-059 aims to address one of these impacts – wear and tear on transportation infrastructure and services.

SB 59 that will help local governments address the operational impacts of helping people physically get to parks and wildlife areas by:

1.) 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.

2.) Commission a Study to Further Examine How Local Access Needs Can be Addressed

The Colorado Department of Natural Resources, in partnership with local governments, will study existing local government budgets for infrastructure and their ability to meet the increased visitation demands seen at state parks, what resources exist now that can help with this challenge, and make policy and funding recommendations.

SB23-059 will be heard in the Senate Finance Committee on Tuesday, March 28th.

Position: Support (CCI Initiated Bill)
Sponsors: Sen. Baisley & Sen. Roberts, and Rep. Catlin & Rep. McLachlan

SB23-1066, Public Access Landlocked Publicly Owned Land

HB 1066 is frequently referred to as the corner crossing bill. A corner crossing is created when there are two public properties that are 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." In its introduced form, HB 1066 would have allowed hunters/recreationalist to move over privately owned land without stepping on or standing on the privately owned land to access public lands. The bill stated that this action is NOT a trespassing offense.
HB 1066 was amended to strike all of its contents and turn the bill into a taskforce. The taskforce will consist of 9 members to study the right of the public to have access to and use public land, the rights of the landowners to their privately owned land and the relative cost and difficulty of compliance with any legislative recommendations made by the task force. The task force will complete its work by November 15, 2023.
HB 1066 is waiting to be heard in the House Appropriation Committee.

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 Wednesday, March 29th.

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. 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.

Position: Support
Sponsors: Sen. Rich and Rep. Taggart
Final Status: Sent to the Governor

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 will be heard in the House Finance Committee on Monday, April 3rd.

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 12 counties: Arapahoe, Boulder, Douglas, Eagle, El Paso, Garfield, Gunnison, Jefferson, 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.

It is important to note that of the 19 DDAs in Colorado, the oldest were founded in 1981 (and thus are 42 years old). These are Grand Junction DDA (1981), Fort Collins DDA (1981), Longmont (1981) and then the next oldest is the Rifle DDA (1982). The remaining 15 DDAs are all under 30 years old. (You can access a list of DDAs and their creation dates here.)

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.

CCI is seeking amendments to SB 175 that will:
1.) Require the qualified electors of the DDA to vote on the continuation of the DDA **OR** allow all taxing entities (except the city) within a DDA to opt-in to any extensions beyond the current 20-year extension.

2.) Provide for better representation on the DDA board by allowing one individual from the county, the school(s) and the special district(s) to be included on the DDA board
3.) Remove the portion of SB 175 that gives the DDA bonding authority. This power should remain with the elected council members and mayor of the city. (*Accomplished via L 001 which was adopted on 3/23 in the Senate Finance Committee*)
Position: Amend
Sponsors: Sen. Jaquez Lewis & 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

HB23-1240 Sales and Use Tax Exemption Wildfire Disaster Construction

HB 1240 creates a state sales and use tax exemption for building materials purchased for rebuilding and repairing residential structures damaged by wildfire from 2020 to 2022. The exemption is for purchases made between January 1, 2020 to July 1, 2025 and allows homeowners that have already made purchases to claim a refund from the Department of Revenue.

Counties and cities will use a Wildfire Rebuild Exemption Certificate, developed by the Department of Revenue, to verify and issue the certificates for underinsured homeowners that were in the homes at the time they were damaged or destroyed. Beginning September 30, 2023, counties and cities are required to submit an electronic report each year to the department with the number of rebuild exemption certificates they have issued.

Finally, the bill authorizes counties to adopt a similar exemption to apply to the COUNTY sales & use tax. CCI is aware of counties that, in the absence of the explicit and permanent exemption authority in HB 1240 on local sales and use tax, have **rebated** citizen sales and use tax expenditures to help provide relief for those who are trying to rebuild after a disaster.

CCI's membership questioned the limited scope of HB23-1240 and believe the exemption should apply proactively to all natural disasters and as far back retroactively as practicable. This led to CCI's oppose position. The sponsors agree with this sentiment and would like to accomplish a more expansive policy in the future but started with HB 1240's limited scope. Commissioners also inquired about the bill's application to prescribed fires during that time that damaged/destroyed residential structures. CCI staff is visiting with the sponsors about a potential amendment to include homes damaged by prescribed fires.

HB 1240 is waiting to be heard in the House Appropriations Committee.

Position: Oppose
Sponsors: Rep. Brown & Rep. Amabile, and Sen. Fenberg

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 will be heard in the House Appropriations Committee on Thursday, March 30th.

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

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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 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 (click here for CCI's summary of the amendments passed in the House) and has been assigned to the Senate Local Government & Housing Committee, where its hearing remains to be 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 and has been assigned to the House Agriculture, Water & Natural Resources Committee, where its hearing is scheduled for Monday, March 27th.

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 signed by the Governor.

Position: Support
Sponsors: Rep. Lukens & Rep. Holtorf, and Sen. Roberts & Sen. Pelton R.
Final Status: Signed by Governor

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. The House voted late last week to **not** concur with the Senate amendment. Instead, the bill will be sent to a conference committee where the amendment in question will be stripped and replaced with a CDOT study of TPR boundaries. While CCI still has concerns, the membership voted to accept the study concept after a conversation with CDOT representatives. The Senate will vote on the conference committee report this week.

Position: Monitor
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 at a time when additional federal funds are being made available. The bill was heard last week in the Senate Local Government and Housing Committee where it passed on a unanimous vote and was placed on the consent calendar for Senate floor action.

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