COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# Legislative Report | May 1, 2023

***Select Subject Area to Jump:***



***Reference:***

CCI Policy Statement

2023 Legislative Priorities

Bill Tracking/Overview

COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# 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.
*Educate · Advocate · Empower*

# 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 have allowed the court to award attorneys' fees – but just to the prevailing plaintiff in a case. 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.

CCI and other stakeholders continued to advocate for a more equitable approach to these discrimination cases that balanced the rights of the disabled community and potential liability for business and government. A strike-below amendment was negotiated with the bill proponents and was offered on the House floor. The amendment removed the attorneys' fees provisions and scaled back the damages to actual monetary damages. In light of the negotiated agreement, CCI moved to a monitor position on the bill. The bill has been sent to the Governor for signature.

Position: Monitor
Sponsors: Rep. D. Ortiz, and Sen. Rodriguez

**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 bill was further amended at CCI's request on the House floor to clarify that bathroom renovations in existing buildings must be substantial in nature to trigger bill compliance and that substantial renovations on one floor of a building do not trigger bill requirements on other floors. CCI is grateful for the sponsors' willingness to address various concerns raised by counties. The bill has now moved to the Senate where it is awaiting a hearing in the Senate State Affairs Committee.

Position: Monitor
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 has now passed the House and moves to the Senate.

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 will be heard in the Senate Business, Labor and Technology Committee on Tuesday, May 2.

Position: Monitor
Sponsors: Rep. Daugherty and Sen. Marchman

**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 has been signed by the Governor.

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

**HB23-1259, Cure Process for Open Meetings Violations**

HB 1259 creates a cure process for a local public body with respect to executive session violations. Under the bill, as long as the local public body takes corrective action to remedy the violation at the next scheduled meeting of the local public body. If the local public body takes corrective action within the specified time frame and a party still brings a claim, the court may award attorneys' fees to the local public body. If the local public body violates executive session law more than two times, this cure process is not available. The bill will be heard on the Senate floor for second reading on Tuesday, May 2.

Position: Support
Sponsors: Rep. Daugherty & Rep. Evans, and Sen. Zenzinger & Sen. Simpson

**HB23-1279, Online Sales of Marijuana**

HB 1279 removes the prohibition in statute on the ability of a retail marijuana dispensary to make sales over the internet or to deliver marijuana products to a person not physically present in the dispensary. This was the practice during COVID (achieved through executive order) and counties reported no issues with online sales and curbside pickup during the pandemic. The bill was amended to require pickup at the licensed premises, verification of proof of age and to require that the warnings appearing on the item packaging be conveyed on the website during an online sale. The Colorado Constitution grants counties the ability to place time, place and manner restrictions on marijuana sales and this legislation does nothing to impinge on that authority. The bill has passed the legislature and now heads to the Governor's desk for signature.

Position: Monitor
Sponsors: Rep. Lindstedt & Rep. Sharbini, and Sen. Rodriguez

**HB23-1287, Modification of County Short-Term Rental Licensing Authority**

HB 1287 addresses county short-term rental (STR) licensing issues as they relate to vacation rental services (such as VRBO and Airbnb). The bill requires these online rental services to include the license or permit number (if applicable) of the STR on the platform, and to remove listings for those STRs which have had their license or permit suspended or revoked by a county. The bill will be heard in the Senate Local Government and Housing Committee on Tuesday, May 2.

Position: Support
Sponsors: Rep. McCluskie & Rep. Lukens, and Sen. Roberts & Sen. Will

**HB23-1296, Task Force to Study Issues Related to Coloradans with Disabilities**

HB 1296 will create a task force that will meet over the summer to discuss a number of policy issues involving persons with disabilities. The task force would have four separate subcommittees to discuss statutory rewrites, outdoor spaces accessibility, housing for persons with disabilities and state and local government accessibility for persons with disabilities. Several of the subgroups will have local government representatives. CCI is asking for a local government member on the outdoor spaces accessibility task force. The bill passed the House late last week and now heads to the Senate.

Position: Amend
Sponsors: Rep. Ortiz & Rep. Herod, and Sen. Winter

**HB23-1302, Accessibility Requirements for Housing**

HB 1302 would modify the accessible housing standards and specifications in building plans submitted to local governments beginning in July of 2023. The bill is expected to increase costs for local government building departments to revise codes and alter permitting and inspection functions. Building departments may not issue permits for projects proposing multiple housing units without verifying the design compliance with ADA standards and ensuring the proper ratios of dwelling units specified in the bill. The bill was postponed indefinitely at the sponsor's request last week.

Position: No position
Sponsors: Rep. Ortiz & Rep. Lieder
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 further amended in a Senate Committee to exempt NDAs that prevent disclosure of trade secrets or confidential information made available to an employee by a vendor or contractor, protect the anonymity of an employee and maintain confidentiality for property sales negotiations, confidential labor relations information and vendor lists and preferences. The bill is still awaiting a hearing on second reading in the House.

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 was amended on the House floor late last week to address an outstanding issue related to remote workers. The bill will be up for a third reading vote early this week.

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 was amended on the House floor late last week to require the Department of Labor to take the unique circumstances of rural counties into account during the rulemaking process. CCI thanks Rep. Richard Holtorf for offering the amendment. The bill has now passed the House but must return to the Senate for consideration of the House amendments. CCI has signed onto a letter with SDA and CML in opposition to the bill.

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 & 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. As introduced, the new suggested standard in the bill could have included 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 amendments to the bill that balance workplace protections with increased employer liability concerns.

A stakeholder group has been working with the bill proponents to try and iron out some differences. The bill was amended in the Senate to make changes to the definition of harassment, the affirmative defense process and record keeping requirements for employers. The bill was also amended to encourage anti-harassment training in the workplace. The amendments addressed most of CCI's concerns and we thank the sponsors and proponents for their willingness to work with us. The bill has passed the House but must now go back to the Senate for consideration of House amendments to the bill.

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

**SB23-244, Website Accessibility Cleanup**

SB 244 seeks to address issues with the implementation of HB21-1110 that required that all government websites be accessible to persons with visual disabilities by 2024. CCI and local government information technology staff have been working with the Governor's Office of Information Technology (OIT) on this issue since the bill's passage and are experiencing some challenges as many website functionalities and features are not readily adaptable to this new standard. There were also concerns with the nature of the liability in the original bill that could lead to multiple claims against a county based on each instance of website inaccessibility. SB 244 creates a reasonability standard for accessibility, provides OIT with rulemaking authority to address other issues that may emerge and prevents multiple claims from being filed for websites that may not be fully accessible. CCI has established a webpage of accessibility resources for counties: https://ccionline.org/research/website-compliance/. The bill has been signed by the Governor.

Position: Support
Sponsors: Sen. Bridges & Sen. Zenzinger, and Rep. Bird & Rep. Sirota
Final Status: Signed by Governor

**SB23-276, Modifications to Election Law**

SB 276 is an expansive election law cleanup bill that makes numerous changes to current election practices in the state. The most important change in the bill concerns the cost allocation of holding an election. Currently, counties receive a reimbursement from the state on a per voter basis (85 or 95 cents per voter, depending on county population size). SB 276 removes that provision from statute and instead establishes a 45/55 split between the state and the county on election costs. This change in cost allocation should result in **significantly** higher cost reimbursement for counties. The bill also allows smaller counties (under 15,000) to reduce their required number of election judges at a voter and service polling center (VSPC) from three judges down to two judges.

CCI strongly supports the cost allocation provision in SB 276 and has learned that amendments put onto the bill on the Senate floor last week have addressed the remaining concerns voiced by the county clerks' association. Those amendments included a supplemental general fund appropriation to the Secretary of State's cash fund for the 2024 election, allowing cell phones that are brought into the voter service and polling centers to be used to take pictures or videos so long as they aren't pictures of someone's voted ballot, altering processes for curing deficiencies in ballots and updating the statewide voter registration system, changes to the process for allowing confined individuals to vote in an election and including a prohibition on use of election funds for advertising that includes a candidate who has declared for a local, state or federal office. The bill has passed the House but must now go back to the Senate for consideration of House amendments.

Position: Support
Sponsors: Sen. Fenberg, and Rep. Sirota

**SB23-286, Access to Public Records**

SB 286 makes a number of changes to the Colorado Open Records Act (CORA). The bill prohibits a governmental entity from charging a per page fee under CORA if the document in question is e-mailed to the requester. The bill also states that if a governmental entity accepts payments by credit card currently, it

must do so for CORA requests. The bill will be heard on third reading in the Senate early this week and then heads to the House.

Position: Monitor
Sponsors: Sen. Hansen, and Rep. Snyder & Rep. Soper

**SB23-290, Natural Medicine Regulation and Legalization**

SB 290 is legislation to implement Proposition 122, a measure passed by the voters last fall that legalizes psilocybin ("magic mushrooms") and other natural medicines and allows the establishment of healing centers where psilocybin therapy can be conducted safely. CCI's main concerns with Proposition 122 were the lack of guardrails in the measure to prevent diversion and black/gray market activity. SB 290 establishes limits on home grows, requiring that grows not exceed 12' by 12' and be locked and enclosed if there are minors in the home. The bill also establishes probable cause for law enforcement officials. Finally, the bill increases the penalty for selling to minors.

As expected, SB 290 moves future regulation and licensing of these substances out of the Department of Regulatory Agencies (DORA) and into a new division within the Department of Revenue, which currently handles licensing of recreational and medical marijuana. The bill also retains the rights of employers to restrict the use of natural medicines and natural medicine products in the workplace.

Proposition 122 specifically prohibits local governments from banning the establishment of healing centers. The proposition and SB 290 do allow local governments to enact time, place and manner restrictions on these healing centers, but counties would like to see more local control with respect to the regulatory oversight of these natural medicines. The bill has passed the House but must now return to the Senate for consideration of House amendments.

Position: Amend
Sponsors: Sen. Fenberg, and Rep. Amabile

COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# 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. In the Senate Health & Human Services Committee the bill received an amendment to further clarify the ability of foster parents to intervene in placement proceedings, after negotiations with some foster parent advocacy groups (view amendment language here). However, when the bill was heard on the Senate Floor, the amendment was removed.

The bill has now passed both chambers and is headed towards the Governor's desk for signature.

Position: Monitor
Sponsor(s): Rep. Gonzales-Gutierrez & Rep. Epps, and Sen. Exum & Sen. Van Winkle
Final Status: Awaiting Governor's Signature
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.

The bill has passed in both chambers and now awaits the Governor's signature.

Position: Monitor
Sponsor(s): Rep. Joseph & Rep. Weissman, and Sen. Winter
Final Status: Awaiting Governor's Signature
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

**HB23-1142, Information of Person Reporting Child Abuse**

As introduced, HB 1142 would have removed the option for 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

**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

**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** with self-funded plans 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 unanimously passed the Senate Health and Human Services Committee and will be heard in the Senate Appropriations Committee on Monday May 1st.

Position: Support
Sponsors: Rep. Daugherty & Rep. Soper, and Sen. Mullica & Sen. Smallwood

**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 regarding the 'regional subcommittees'

of the new Behavioral Health Administrative Services Organizations (BHASOs). BHASOs regions will soon be drawn (see last paragraph of this article) and they will serve as the intermediaries for those who are underinsured and uninsured to access behavioral health services.

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

In response to CCI's advocacy, HB 1236 was amended to state that the BHASO "shall staff all the subcommittee meetings, which shall meet a minimum of six times a year and allow for public comment during each meeting." Additionally, the regional subcommittees will consist of 9 members. Five of the nine members will be appointed by local public health/human service agencies in the regional subcommittee area. These five members will represent individuals with expertise in/from: 1.) behavioral health needs of children and youth; 2.) behavioral health safety net providers; 3.) local school district; 4.) criminal justice system; and 5.) someone with lived experience. The other four members will be appointed as follows – 2 by the BHA commissioner: 1.) a county commissioner and 2.) someone with lived experience and 2 by the BHASO: both of whom must be individuals with lived experience.

When drawing the geographic lines for the regional subcommittee, HB 1236 states that: "the BHA shall, to the best of the BHA's ability, align geographically with judicial districts whenever feasible, taking into consideration community feedback on where and how individual receive services in their communities." Rep. Amabile recognizes that the geographic boundaries of the judicial districts might not make sense in all cases but she has strongly pushed to have them be the starting point for the discussion regarding regional subcommittee boundaries. Her intent is two-fold: 1.) she is thinking about the promise of drug courts and the potential for this approach to gain momentum in the future and 2.) the shear number of judicial districts appeals and she wants to be sure that the BHA remains open to as many regional subcommittees as local communities believe are needed.

Finally, HB 1236 was also amended to require entities wishing to serve as a BHASO (think, for example Magellan Health and/or Signal Behavioral Health…both of whom have been rumored to be interested in serving in such role) to include letters of support in their application from stakeholders in the BHASO region from "county commissioners and advocacy or community-based organizations".

The Senate further amended HB 1236 to delay the creation of the BHASOs by 1 year. Their effective date will now be July 2025 rather than July 2024. Given the change in leadership, the BHA is simply not ready to release an RFP this spring to meet the July 2024 deadline. There is confusion around what role the BHASO contractors will play and a clear, concise picture of the BHASO structure has not been developed. For example, the BHA has not made a decision about whether to money will follow the individual or just go to providers.

HB1236 will be heard on second reading in the senate on Monday, May 1st.

Position: Support
Sponsors: Rep. Young & Rep. Amabile, and Sen. Kolker

**HB23-1249, Reduce Justice-involvement for Young Children**

HB23-1249, Reduce Justice Involvement for Young Children, is the return of a concept from the 2022 session, with some modifications (HB22-1131). Both versions of the bill increase the minimum age of childhood prosecution from 10 years old to 13 years old; this concept is sometimes referred to as "raise the floor". Additional state court data on this population is available here.

In 2022, the bill was amended to a task force to review the impacts to services should the minimum age of prosecution increase. Last year, CCI was opposed to this bill until it was amended into a task force. (View introduced version of the bill) (View final version of the bill). Governor Polis issued this signing statement with the bill, stating that a recommendation on changing 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 of 2023. While their report recommends "expanding and better utilizing current programs and services before creating any new systems of support", it does not make a recommendation specific to local collaborative management programs (CMPs).

This year's version still "raises the floor" on childhood prosecution; the only exemption being for homocide [multiple sections]. Sixteen other states have a minimum age of 10, including Colorado; two other states have a minimum age of 13 [view other state's minimum ages, exemptions and approaches here].

It is worth noting that existing law limits the detention of 10–12-year-olds to those with felonies or specific weapons charges, as described in C.R.S. §19-2-508.

When law enforcement has probable cause a 10-12-year-old 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, the CMP, and victim, if applicable. [Section 15] This information form will be developed by the Colorado Department of Human Services. [Section 25]

Under the bill, each county is required to have or be part of a CMP and provide services and support to referred 10–12-year-olds. [Section 23] Learn more about CMPs existing functions here. The bill makes additional administrative changes to CMPs.

CMPs must create at least one individualized service and support team (ISST) to refer a child to services, establish a service and support plan, and review all referrals to the CMP; it is also responsible for notifying victims, soliciting input from victims, and connecting victims to services and support.

The ISST shall create an initial plan for every child referred; indicating that 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 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 necessary resources to address 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, to 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 victim [described on page 30, line 19-27 through page 31, lines 1-26].

The bill removes the performance-based measures and funding formula that are currently utilized for CMP [Section 23 & 25]. CMPs will still be subject to an annual evaluation by CDHS but will be required to collect additional data on this population and related outcomes. [Section 27]

The bill passed the House on third reading with the following no votes from democrats – Bird, Hamrick, Lukens, Marshall, McLachlan, Snyder, and Speaker McCluskie.

Due to a substitution in the Senate Judiciary Committee, the bill has passed in committee and is expected to be heard on the Senate Floor on Tuesday.

CCI has numerous concerns with this proposed piece of legislation, which are summarized on this fact sheet.

It is worth noting Governor Polis is opposed to the bill and has not suggested amendments to the bill. Additional organizations opposed to the bill include – Colorado Organization for Victims Assistance (COVA), Colorado District Attorney's Council (CDAC), Colorado Municipal League (CML), Colorado Association of Chiefs of Police, County Sheriffs Organization of Colorado (CSOC), and Pikes Peak Area School District Alliance. Organizations attempting to amend the bill include – Colorado Association of School Executives.

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

**HB23-1269, Extended Stay and Boarding Patients**

HB 1269 accomplishes three things. First, it will require that Colorado Department of Health Care Policy and Financing (HCPF) to analyze whether setting minimum rate requirements for regional accountable entities (RAEs) for certain services, including residential treatment and psychotherapy, will expand access to needed services. Second, it will initiate a process to further incentive residential treatment providers to serve kids with higher acuity needs by creating an incentive funding pool. And, finally, it requires data to be collected to identify the breath of children and youth who meet criteria for extended stay and boarding and to analyze solutions.

HB 1269 will be heard in the Senate Health and Human Services Committee on Wednesday, May 3rd.

Position: Support
Sponsors: Rep. Michaelson Jenet & Rep. Gonzales Gutierrez, and Sen. Bridges & Sen. Gardner

**HB23-1300, Continuous Eligibility Medical Coverage**

HB 1300 requires the Department of Health Care Policy and Financing (HCPF) to extend continuous eligibility to select groups and produce a report studying extending eligibility to additional groups. Specifically, the populations that will be continuously eligible will be children under three and adults recently released from incarceration. Under HB 1300 – and once a waiver has been approved by the federal government – these populations will not be disenrolled from Medicaid or the Children Health Plan Plus (CHP+) until they reach the age of three or have been out of incarceration for 12 months, respectively. The bill requires HCPF to seek federal approval for these populations by April 1, 2024.

HB 1300 will be heard on third reading and final passage in the Senate on Monday, May 1st.

Position: Support
Sponsors: Rep. Bird & Rep. Sirota, and Sen. Zenzinger & Sen. Kirkmeyer

**HB23-1307, Juvenile Detention Services & Funding**

It is important to keep in mind, that juveniles that have been accused or adjudicated of a crime, must go through a screening process that determines the appropriate placement for the youth, including secure detention, staff secure facilities (typically private, contracted facilities), shelter care, electronic monitoring, or home with parents or kin. The Colorado Department of Human Services (CDHS) is responsible for this process and the detention facilities.

Juvenile detention bed caps are allocated across judicial districts and there are eight youth detention facilities in the state. Until 2021, the number of available juvenile detention beds was determined by the Joint Budget Committee, based on available funding and data projections.

SB21-071 established a cap of 215 juvenile detention beds, which was a reduction of 115 beds from the year prior. It also expanded the membership and responsibilities of an existing work to review data and provide recommendations by July 1, 2023 on the following:

- how to enhance the continuum of community-based services and placement options for juvenile offenders
- the secure detention bed capacity limits & the allocation of beds across the state
- future data collections and reporting to assist with these duties.

This cap has become increasingly problematic for the Colorado Youth Detention Continuum (CYDC) coordinators, local county human services departments and district attorneys. When a judicial district approaches their allocated detention bed cap, the responsibility of identifying safe, community-based treatment placements falls to the local county human services staff. Colorado has a significant shortage in services all along the behavioral health continuum, making this an extraordinarily difficult task.

This year, CDHS has worked with the JBC to set aside $3.3 million in General Fund to address this problem by spending

- $1.359 million for temporary emergency detention beds (provides approximately 22 beds over the cap) available through a court order
- $1.780 million to be allocated to CDHS to incentivize and remove barriers to community residential facility providers (who provide placements in lieu of detention)
- $200k to be allocated to judicial districts for community-based outpatient therapeutic services, mentorship services, and supports to assist with moving youth who require out of home placement quickly from detention to out of home placement.

To access the temporary emergency detention beds, a district attorney or a county department of human services, must petition the court and can access beds if:

- All statutorily available beds allocated to the district are utilized
- Beds loaned by the district have been relinquished
- No beds are available in the catchment area
- No beds available in any facility within 100 miles of the districts assigned facility

The bill also requires a guardian ad litem to be appointed to all juveniles screened into detention at the juvenile's detention hearing until the juvenile is released from detention.

While commissioners expressed a desire that the cap simply be increased, rather than be required to petition for temporary, emergency beds, they are very appreciative of the sponsors and the department of human services working toward a solution. Not to mention, the available funding for alternative placements.

Commissioners are still concerned about the arbitrary 100 mile requirement for the facility and CCI is working with the sponsors to generate an alternative solution.

Position: Amend
Sponsor(s): Rep. Daugherty & Rep. Soper and Sen. Rodriguez & 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 caseworkers 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 parents 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 relationship, 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 in both chambers and is headed towards the Governor's desk for signature.

Position: Monitor
Sponsor(s): Sen. Buckner, and Rep. Amabile
Final Status: Awaiting Governor's Signature
Staff: Katie First

**SB23-064, Continue the Office of Public Guardianship**

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

SB 64 indefinitely extends the guardianship office (it is scheduled to end on June 30, 2024), extends the guardianship services to every judicial district in the state by December 31, 2030, creates a 7 members board to oversee the Office's work, and requires guardians to ultimately be certified to preform the work that is required.

Counties may, but are not required, to provide guardianship services to individuals in need. County Adult Protective Services are ill equipped to do this work and in some cases, the individual could benefit from being moved to a professional, certified guardian. While CCI was originally seeking an amendment to ensure that this was an option under SB23-064, upon further conversations with the Office of the Public Guardianship, counties have decided to continue work on this issue via on-going dialog with the office. SB 64 will be heard in the House Judiciary Committee on Tuesday, May 2nd.

Position: Support

Sponsors: Sen. Gardner & Sen. Ginal, and Rep. Snyder

**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 has passed in the House & Senate and is headed towards the Governor's desk for signature.

Position: Support
Sponsor(s): Sen. Zenzinger & Sen. Kirkmeyer and Rep. Amabile & Rep. Michaelson Jenet
Final Status: Awaiting Governor's Signature
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 file a grievance with the county, 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 has passed the house and is now headed to the Governor's desk.

Position: Support

Sponsors: Sen. Exum, and Rep. Ricks & Rep. Frizell

COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# 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.

The bill has passed third reading in the Senate and is headed for the Governor's desk for signature.

Position: Monitor
Sponsor(s): Rep. Snyder & Rep. Joseph and Sen. Exum
Final Status: Awaiting Governor's Signature

## 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.

Senator Roberts introduced an amendment in the Senate Judiciary Committee to allow current agreements to continue. However, when the bill was heard on second reading on the Senate Floor, the amendment was rejected.

The bill has passed its third reading in the Senate and is headed for the Governor's desk for signature.

Position: Oppose
Sponsor(s): Rep. Ricks & Rep. Garcia and Sen. Jaquez-Lewis & Sen. Gonzales
Final Status: Awaiting Governor's Signature

**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.

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

**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 has passed its Senate committee hearing but is awaiting its Senate Appropriations 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 been introduced in the Senate and assigned to the Local Government & Housing Committee, but its hearing has been rescheduled multiple times.

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

**HB23-1237, Inclusive Language Emergency Situations**

As amended at the request of counties, the bill requires the University of Colorado's Natural Hazards Center to conduct a study regarding:

1. Agencies that need to be able to provide emergency alerts in a minority language by July 1, 2024; and
2. What local 911 agencies need to provide live interpretation during a 911 call by July 1, 2024.

The study will review:

- Essential components of a warning system without having to "opt in" to alerts & the ability to provide alerts in minority languages;
- Identify agencies current capabilities & gaps requiring correction;
- Identify funding resources for the creation of a grant program;
- Determine best practices; and
- Present research regarding effective emergency alerts for people with disabilities.

The provision in the introduced bill requiring emergency alerts to be sent in minority languages has been struck. The amended version of the bill is available here.

The bill has passed the Senate State, Veterans & Military Affairs Committee & is awaiting its Senate Appropriations Committee hearing.

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

**HB23-1270, Creation of Urgent Incident Response Fund**

Creates the "Urgent Incident Response Fund" within the Division of Homeland Security and Emergency Management for local governments, including municipalities, counties, and tribal governments, to be

reimbursed for the costs of responding to urgent incident that do not rise to the level of disaster or emergency.

Disaster is defined in CRS 24-33.5-703(3) as "the occurrence or imminent threat of widespread or severe damage, injury, or loss of live or property resulting from any natural cause or cause of human origin". Emergency is defined in CRS 24-33.5-703 (3.5) as "an unexpected event that places life or property in danger and requires an immediate response through the use of state and community resources and procedures".

CCI is supportive of the intent of the funds and appreciates the partnership with the state to respond to 'urgent incidents'. At CCI's request, two amendments were adopted on the House Floor to provide greater clarity and transparency for the fund:

1. Amendment L03 requires the division to publish information on their website regarding local governments that receive and utilized reimbursements [view amendment language]
2. Amendment L04 tasks the division to promulgate rules regarding the reimbursement, including applying for reimbursement, eligibility criteria for the amount of reimbursement, and the distribution and receipt of an approved reimbursement [view amendment language]

The bill has passed its Senate Committee hearing, but is awaiting its Senate Appropriations Committee hearing.

Position: Support
Sponsor(s): Rep. Garcia & Rep. Lindsay and Sen. Gonzales

**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 in both the House and Senate; the Senate has also concurred with a technical amendment added in the House. It now is headed toward the Governor's desk for signature.

Position: No Position
Sponsor(s): Sen. Cutter & Sen. Exum and Rep. Froelich & Rep. Velasco
Final Status: Awaiting Governor's Signature

**SB23-277, Public Safety Programs Extended Uses**

In 2022 there were a package of public safety grant programs utilizing the state's share of American Rescue Plan Funds (SB22-001 & SB22-145). These three grant programs are set to expire, but still have funds available for local governments and law enforcement agencies.

SB277 extends the lifetime of these programs until the remaining funds are spent and expands the eligible uses of funds.

The bill passed in the Senate and been assigned to the House Judiciary Committee.

Position: Support
Sponsor(s): Sen. Buckner & Sen. VanWinkle and Rep. Valdez

COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# Land Use & Natural Resources

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

## 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

## 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.

Regardless of these guidelines, the bill 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.

HB 1115 was postponed indefinitely in the Senate Local Government & Housing Committee on Tuesday, April 25th.
Position: Monitor
Sponsors: Rep. Mabrey & Rep. Velasco, and Sen. Rodriguez
Final Status: Postponed Indefinitely

**HB23-1194, Closed Landfills Remediation Local Governments Grant**

This CCI-initiated bill 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, two members representing CDPHE, and one member with technical expertise not affiliated with a local government or with the department.

Funding priority will be given to the following applications:

- Applications that concern remediation efforts that address the greatest actual risk to public health and environment.
- Applications from local government landfills subject to existing compliance orders.
- Applications from eligible local governments based on expenses occurred to date by the eligible local government in attempting to implement remediation.

As amended, before any decision to award or deny a grant is finalized, the grant committee must interview an official of the applicant eligible local government who is familiar with the closed landfill site in question. This will provide a clear avenue for the local government's perspective to be heard.

The bill also 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.

Further amendments to the bill included the removal of dispute resolution and a few changes to facilitate administration of the grant program (e.g., pushing back the dates for promulgating rules and beginning to award grants, allowing CDPHE to include the grant report in its annual report).

The bill passed House Appropriations and is now due for floor work.

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

**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 are available for expenditure without further appropriation until July 1, 2025.

Additionally, HB22-1378 directed the Division of Housing to award 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 the 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.

HB23-1232 passed both the Senate and the House and is headed to the Governor's desk for signature.

Position: Support
Sponsors: Rep. McCluskie & Rep. Jodeh, and Sen. Roberts
Final Status: Awaiting Governor's Signature

**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 for NEW construction or major renovations of multifamily buildings. The State Electrical Board must require compliance starting March 1, 2024. The Energy Code Board has shared the final public draft of the Electric Ready and Solar Ready Code, available here.

The board may not adopt rules prohibiting the installation or use of EV charging stations unless the rules address a bona fide safety concern. As amended, if an electrical permit application is submitted to a local electrical inspection authority before the enforcement date but a permit has not yet been issued, the authority may determine how to apply the requirements of the rules developed for this section. Also as amended, if the rules of this section conflict with the state or local building or zoning code, these rules prevail.

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. As amended, local governments also may not restrict parking based on a vehicle being a plug-in hybrid or plug-in electric vehicle.

Section 10 exempts EV charging systems from the levy and collection of property tax. As amended, sections 10 and 11 also clarify that when a local government adopts or updates the electrical code or plumbing code by reference, this action does not trigger the timing requirements of HB22-1362.

Section eleven (now twelve with amendments) 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.

While CCI is in a monitor position, CCI still has a few concerns to watch. 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 passed the Senate Transportation & Energy Committee and is now due for floor work.

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

**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 $992,709 from the General Fund to the program in fiscal year 2022-23, and the money is annually 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.

HB23-1234 has passed both the House and the Senate and is headed to the Governor's desk for signature.

Position: Support

Sponsors: Rep. Brown & Rep. Soper, and Sen. Roberts
Final Status: Awaiting Governor's Signature

**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 is intended to create a state preemption and prohibition on "anti-growth laws" that limit the number of building permits issued for development (i.e., local housing growth restrictions), both existing and future. As amended, an anti-growth law is defined as "a land use law that explicitly limits either the growth of the population in the governmental entity's jurisdiction or the number of development permits or building applications for residential development or the residential component of any mixed-use development submitted to, reviewed by, approved by, or issued by a governmental entity for any calendar or fiscal year."

As amended, the bill states that nothing within requires a governmental entity to approve a permit application or precludes a governmental entity from regulating the use of land, developing land use plans, enacting affordability requirements, regulating the rental of any property or portion of a property that is available for lodging for less than 30 days, or denying a permit for any reason. The bill also does not apply to a hotel unit portion of a structure for commercial lodging.

As amended, the bill also creates an exception to allow local governments to continue to implement temporary moratoria to address various circumstances: (1) following a disaster emergency declared by the governor or local government; (2) for the purpose of developing or amending land use plans or laws, or (3) to provide for the extension or acquisition of public infrastructure, public services, or water resources. These temporary laws may be effective for no more than 24 months in any five-year period.

CCI remains concerned that the bill language still goes beyond the stated purpose of prohibiting growth caps laws and unnecessarily limits local government land use authority. The bill passed the House and has been assigned to the Senate Local Government & Housing Committee, where its hearing is scheduled for Tuesday, May 2nd.

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

**HB23-1257, Mobile Home Park Water Quality**

HB1257 requires the Water Quality Control Division in the Colorado Department of Public Health and Environment (CDPHE) to develop and implement a testing program of finished water (meaning water ready for consumption) at mobile home parks, to ensure compliance with water standards. Upon testing the results will be shared, including with the county department of public health and if testing identifies a water quality issue, certain details must be included. The bill outlines a remediation process for the park owner.

The Water Quality Control Division will have authority to test and require remediation of finished water, including the ability to issue cease-and-desist orders. Violations of the bill is a violation of the "Colorado Consumer Protection Act".

As introduced, for a mobile home park owner that fails to develop or implement the remediation plan, the mobile home park would become a class 3 public nuisance; it then becomes the property of the county for no fewer than 100 years. The residents of the mobile home park may remain in their home and are not required to pay rent until the county acquires the property and begins development of a remediation plan.

However, at the urging of county commissioners, in the House Committee, the bill was amended to replace the county ownership mechanism with a series of fines. [View the amended version of the bill here]. Those fines will go towards a newly created Mobile Home Park Water Quality Fund to provide grants to park owners and local governments to address water quality issues and wastewater problems in mobile home parks.

In addition, the Water Quality Control Division must also create an action plan to address and improve water quality at mobile home parks. The action plan must include identifying potential fund to support remediation of water quality issues at mobile home parks. The bill also creates the "Mobile Home Water Quality Grant Program" for park owners and local governments to address water quality issues and wastewater problems in mobile home parks.

CCI greatly appreciates the sponsors for addressing our concerns surrounding the county ownership provision in committee. However, are curious about how the state will ensure that remediations costs and fines are not passed onto residents and possible unintended consequences that may cause parks to close.

The bill has passed in the House and is headed toward the Senate.

Position: Monitor
Sponsor(s): Rep. Velasco & Rep. Boesenecker and Sen. Cutter
Staff: Katie First

**SB23-016, Greenhouse Gas Emission Reduction Measures**

SB23-016 is composed of 25 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 25 sections, the ones most relevant to counties include the following:

- Section 7: 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 8: 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. As amended, the COGCC must ensure sequestration of greenhouse gases "in a verifiable manner."
- Sections 12 and 13: Extends a $5,000,000 appropriation to the Division of Local Government in the Department of Local Affairs in state fiscal year 2020-21 for use for the renewable and clean energy initiative program to allow the division to use the appropriation until is it fully expended.
- Sections 21 and 22: 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 24: 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.

The bill was amended to include definitions related to energy efficiency measures and to require the COGCC to consider the need for expanded transmission capacity in the state when reviewing an electric utility's plan related to powerline trails. A newly added section 15 also incorporated a study on expanding transmission capacity.

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 24 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 House and is headed back to the Senate for consideration of House amendments.

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

**SB23-274, Water Quality Control Fee-Setting By Rule**

SB 23-274 requires the Water Quality Control Commission (WQCC) to engage in stakeholder outreach and set the fees listed below by rule on or before October 31, 2025. The rules must become effective on or before January 1, 2026, and the WQCC may by rule authorize the division to phase in the rules. Through the stakeholder process, CDPHE must identify the fee revenue needed and shall discuss with stakeholders the options for setting a cap on fee increases.
- Drinking water fees assessed on public water systems;
- Commerce and industry sector permitting fees;
- Construction sector permitting fees;
- Pesticide sector permitting fees;
- Public and private utilities sector permitting fees;
- Municipal separate storm sewer systems sector permit fees;
- Review fees for requests for certification under section 401 of the federal "Clean Water Act";
- Preliminary effluent limitation determination fees;
- Wastewater site application and design review fees;

- On-site wastewater treatment system fees; and
- Biosolids management program fees.

The bill increases the percent of appropriated funds that the Colorado Department of Public Health and Environment (CDPHE) may use for the administration and management of the Public Water Systems and Domestic Wastewater Treatment Works Grant Program from 5% to 10%.

It modifies the composition of the WQCC by requiring that:

- No more than five members of the commission be affiliated with the same political party.
- At least one member of the commission must have agricultural experience.
- At least three of the members must fulfill the following criteria:
    - Must be from the community regulated by the Division.
    - Must be employed by an entity that is subject to these fees.
    - As practicable, should be employed by an entity subject to a different type of fee than the other two members fulfilling this requirement.
- Members must have at least one specific type of identified area of expertise, including expertise in areas of science and environmental law or policy or areas such as municipal wastewater treatment or county government.

The bill also (1) creates the Clean Water Cash Fund into which the fees collected under the commission's rules (other than the drinking water fees assessed on public water systems) are deposited, (2) repeals the division's regulatory authority concerning nuclear and radioactive wastes, and (3) requires the division to include additional information related to the discharge permitting program in its annual report.

The bill passed the House Energy & Environment Committee and is now due for floor work.

Position: Monitor
Sponsors: Sen. Winter and Rep. Dickson

**SB23-285, Energy and Carbon Management Regulation in Colorado**

Effective July 1, 2023, the bill changes the name of the Colorado Oil and Gas Conservation Commission (COGCC) to the Energy and Carbon Management Commission (ECMC) and expands the commission's regulatory authority to include the authority to regulate a broader scope of energy and carbon management areas beyond oil and gas. The bill also changes the name and eligible uses of COGCC cash funds to align with the ECMC and requires the commission to update their website with information and data regarding these regulatory activities.

The bill states that, as to property rights acquired on or after July 1, 2023, the property right to a geothermal resource associated with non-tributary groundwater is an incident of ownership of the overlying surface unless expressly severed.

Current law requires, prior to constructing a well to explore for or produce geothermal resources, the operator of the well to obtain a permit from the state engineer. The bill defines different types of geothermal operations and bifurcates regulation of the different operations between the ECMC and the state engineer. Specifically, the ECMC is granted the exclusive authority to regulate deep geothermal operations for the exploration for or production of an allocated geothermal resource or a geothermal

resource that is deeper than 2,500 feet below the surface. The state engineer retains the exclusive authority to regulate shallow geothermal operations.

Prior to obtaining a permit from the ECMC to construct a well for deep geothermal operations, the applicant must provide evidence of any applicable siting application to the local government with jurisdiction over the deep geothermal operations, unless the local government does not regulate the siting of such operations. The commission and the state engineer may adopt rules for the assessment of fees for the processing and granting of a permit to construct a well for deep geothermal operations or shallow geothermal operations, as applicable.

Current law requires, prior to the production of geothermal fluid from a well, the operator of the well to obtain a permit from the state engineer. Section 8 instead requires:

- A permit from the state engineer prior to the use of a geothermal resource that is not an allocated geothermal resource;
- The state engineer to issue the permit for the use of a distributed geothermal resource;
- A permit from the state engineer prior to the use of an allocated geothermal resource; and
- The state engineer to issue a permit for the use of an allocated geothermal resource after a finding that any associated geothermal fluid is non-tributary.

Current law allows the state engineer to adopt procedures that establish geothermal management districts for the management of geothermal operations within the district. The bill limits the scope of geothermal management districts to distributed geothermal resources. The state engineer is also required to notify the commission of any application for a geothermal management district that is anticipated to affect deep geothermal operations. The ECMC is also given the exclusive authority to regulate any intrastate facility that stores natural gas in an underground facility (UNGS facility) that is not a pipeline facility subject to regulation by the Public Utilities Commission. If the ECMC submits a certification to, or enters into an agreement with, the federal secretary of transportation pursuant to applicable federal law, any rules regulating UNGS facilities must be at least as stringent as the applicable federal requirements. Before commencing construction of a new UNGS facility, the operator of the facility must provide evidence of any applicable siting application to a local government with jurisdiction over the UNGS facility, if applicable.

The bill also directs the commission to conduct the following studies, prepare reports summarizing the findings of the studies, and submit the reports to the general assembly:

- A technical study of the state's geothermal resources;
- A study, in collaboration with the state engineer, that evaluates the state regulatory structure for geothermal resources and whether any changes to law or rules are necessary;
- A study concerning the regulation and permitting of hydrogen; and
- A study, in coordination with the public utilities commission, examining the siting and regulation of interstate pipelines.

The bill passed the House Energy & Environment Committee and is awaiting its hearing in Senate Appropriations. The hearing has not been scheduled.

Position: Monitor
Sponsors: Sen. Priola & Sen. Hansen, and Rep. McCormick

**SB23-213, Land Use**

As introduced, SB 213 was an omnibus land use bill that attempted 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 within incorporated areas if adequate infrastructure was present. The bill also sought to increase the amount of workforce housing in certain rural resort communities. Finally, the bill altered DOLA's current role as a local government partner agency in favor of a more regulatory oversight role. CCI and a host of other local government associations opposed the introduced legislation as a massive preemption of local land use authority.

A strike-below amendment was offered by the sponsor in the Senate Appropriations Committee last week that removed the preemptions in the bill and returned DOLA to its traditional role. The strike-below retained other pieces of the bill that were not controversial, such as a statewide housing needs assessment study and the creation of an interagency working group with local government representation. The bill was further amended on the Senate floor to include a statewide summit and series of regional meetings to work on local solutions. Another amendment guaranteed that any water planning for new housing growth had to align with both the state water plan and any basin plans. CCI has voted to monitor the bill as amended and will work to ensure that preemptions are not put back in the bill as it moves to the House.

CC has prepared a fact sheet on SB 213. The CCI Land Use Working Group also adopted a set of principles on land use and affordability that have guided the association's work on the bill to-date.

The bill has been introduced in the House and is expected to be heard in the House Transportation, Housing and Local Government Committee on Tuesday. Any changes to the bill will then require a return trip to the Senate for consideration of amendments.

Position: Monitor as Amended
Sponsors: Sen. Moreno, and Rep. Jodeh & Rep. Woodrow

COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# Public Lands

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

**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 will be heard on second reading in the house on Tuesday, May 2nd.

Position: Oppose
Sponsors: Rep. Bradley

**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.

As amended in the Senate, SB 59 will help local governments address the operational impacts of helping people physically get to parks 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. These new, optional fees can begin starting January 1, 2025.

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. This study will be complete by the fall of 2024.

SB23-059 will be heard in the House Finance Committee on Monday, May 1st.

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

**SB23-201, Mineral Resources Property Owners' Rights**

Under current law, the Colorado Oil and Gas Conservation Commission (COGCC) in the Department of Natural Resources considers applications for the forced pooling of mineral interests within a drilling unit. Forced pooling combines the mineral interests of both consenting and nonconsenting mineral interest owners. In order to force pool, voluntary agreements with mineral interest owners that own at least 45% of the mineral interests to be pooled must be secured.

As introduced, SB 201 prohibits a forced pooling order if the nonconsenting mineral interest is a school district or local government (city or a county, but not a special district). Among its other changes, the bill requires that: 1.) applicants for a pooling order submit a third party validation proving the applicant has the consent of least 45 percent of the mineral interests to be pooled; 2.) the COGCC determine if minerals in a polling order can be extracted without disturbing nonconsenting interests; 3.) oil and gas operators prove that mineral extraction cannot be accomplished without disturbing a nonconsenting interest, when a pooling order is contested; 4.) a pooling order be issued prior to an operator drilling the well for access to the minerals, or extracting the minerals; and 5.) nonconsenting owners pay a reduced amount of production costs.

Finally, the bill allows a nonconsenting owner in a pooling order to audit the oil and gas operator's records with respect to any development and production of oil and gas products derived from or attributable to the nonconsenting owner's interests.

SB 201 was postponed indefinitely by the Senate Agriculture & Natural Resources Committee on Thursday, April 20th.

Position: Pending
Sponsors: Sen. Jaquez Lewis, and Rep. Boesenecker & Rep. Weissman
Final Status: Postponed Indefinitely

COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# Taxation & Finance

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

## 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.

As amended, some of these upgrades include:

- Populating a local account number on all returns and summary reports, if the retailer filing the return has a number and provides it via the SUTS;
- A simplified user interface for filing returns as an alternative to the current spreadsheet method;
- Providing retailers with a bulk testing option to address files; and
- A tab for a retailers filing history and payments

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.).

As amended, HB23-1017's roughly $7 million general fund obligation for fiscal year 2023-2024 was reduced to $5.4 million. HB 1017 will be heard in the Senate Finance Committee on Tuesday, May 2nd.

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. As amended, HB 1091 also charges the Department of Revenue to examine how to expand the credit to cover in-kind real property, equipment and services donations in the future, best ways to inform taxpayers and child care facilities about the credit, and ensuring the tax credit is equitably promoting child care in all communities.

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 ($3 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 will be heard on third reading and final passage in the Senate on Monday, May 1st.

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

**HB23-1113, County Impact Notes by Legislative Council**

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

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

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

Position: Amend

Sponsors: Rep. Hamrick & Rep. Frizell
Final Status: Postponed Indefinitely

**HB23-1184, Low Income Housing Property Tax Exemptions**

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

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

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

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

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

CCI's amendments have been adopted. HB 1184 will be heard on third reading and final passage in the Senate on Monday, May 1st.

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

**HB23-1240 Sales and Use Tax Exemption Wildfire Disaster Construction**

HB 1240 creates a state sales and use tax refund for building materials purchased for rebuilding and repairing **residential** structures damaged by wildfire from 2020 to 2022. The amount of refund that can be

claimed will be equal to 2.90% of the estimated construction and building materials cost for repairing or rebuilding a residential structure. A claim for refund must be filed on or before June 30, 2028. 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 and through September 30, 2025, 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 provision in the bill that authorized counties to adopt a similar exemption to apply to the COUNTY sales & use tax has been removed. 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 believes 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 has not gotten traction on including homes damaged by prescribed fires.

HB 1240 will be heard in the Senate Finance Committee on Tuesday, May 2nd.

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

**HB23-1272, Tax Policy That Advances Decarbonization**

HB 1272 is a 97-page bill that creates a series of new and expanded refundable income tax credits to incentivize investments that will reduce Colorado's carbon footprint. New and expanded income tax credits under the bill include incentives for electric vehicles, innovative trucks (think school buses and delivery trucks), industrial facilities to study their greenhouse gas emissions, geothermal energy projects, heat pump technology, electric bicycles, and sustainable aviation fuel production. The degree of most of the credits hinge on whether or not the state is in a TABOR surplus situation.

There are two policies in HB 1272 that are likely to be of direct interest to counties (page and line references are to the introduced bill). They are:

1.) **The reduction of the severance tax credit allowed for oil and gas production**. Under current law, producers can claim a credit of 87.5% of their severance tax liability against their local property tax bill. HB 1272 reduces this credit to 75% beginning in 2024 and for each taxable year thereafter.
The increased revenue that is generated from this tax policy change will go to the state's general fund and to four cash funds that will help pay for the administrative costs the Colorado Energy Office will realize in implementing some of the new and expanded income tax credits listed earlier (namely the incentives targeted to innovative trucks (think school buses and delivery trucks), industrial facilities to study their greenhouse gas emissions, geothermal energy projects, and electric bicycles.)

2.) **The reduction of specific ownership tax (SOT) paid on Class A and Class B fleet vehicles.** HB 1271 reduces the actual purchase price of these vehicles by 50% and applies the SOT to that reduced amount from January 1, 2024 – January 1, 2028. And, from January 1, 2028 – January 1, 2033 the purchase price of these vehicles is reduced by 60%. This policy will reduce property tax revenue that goes to counties and all other local governments.

HB 1272 will be heard on third reading in the Senate on Monday, May 1st.

Position: No Position
Sponsors: Rep. Weissman & Rep. Joseph, and Sen. Fenberg

**HB23-1285 Store Use of Carryout Bags and Sustainable Products**

HB 1285 allows local governments to accept carryout bag fee revenue from stores in 2023 (rather than waiting until April 2024). The bill also specifies how stores may use any retained revenue they would otherwise have had to remit if a local government does not have a process to accept their portion of the fees.

HB 1285 is being initiated by 7/11 stores. In some cases, local governments have not established a process to receive their portion of the plastic bag fee. When this occurs, businesses must retain the revenue on their books which looks like income from a tax liability standpoint. HB 1285 helps to address this predicament.

HB 1285 will be heard in the Senate Finance Committee on Tuesday, May 2nd.

Position: Support
Sponsors: Rep. Valdez

**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 on third reading and final passage on Monday, May 1st.

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: Signed by 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 is waiting to be heard on second reading in the House.

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

**SB23-175, Financing of Downtown Development Authority Projects**

SB 175 modifies some functions of Downtown Development Authorities (DDA). DDAs currently exist in 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.

As amended in the senate, SB 175 will allow the Board of the Authority to have a line of credit. The provision granting the Authority to issue debt has been removed. The bill was also amended to require the city council/mayor to approve, by ordinance, 20-year extensions beyond the current 50 year life span of a DDA. The ability for a DDA to exist in perpetuity remains a unilateral decision made by the municipality.

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. In summary, the 'base' valuation for counties, special districts, schools and junior colleges ALWAYS runs 30 years behind present day valuations. 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.) Allow non-municipal taxing entities the ability to opt-out of DDA extensions beyond the current 50 years of life. CCI would also agree to a requirement that the qualified electors of the DDA vote on the continuation of the DDA.
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.

SB 175 has passed both chambers and is now heading to the Governor for his signature.

Position: Amend
Sponsors: Sen. Jaquez Lewis & Sen. Rich, and Rep. Boesenecker & Rep. Taggart

**SB23-273, Agricultural Land in Urban Renewal Areas**

SB23-273 closes a loophole that is being used to include agricultural land in a completely NEW urban renewal plan.

In 2010, HB 10-1107 was passed to prevent agricultural land from being mischaracterized as blight. The legislative history of this bipartisan bill made it very clear that agricultural land was NOT to be included in urban renewal area absent very limited exceptions. Those exceptions included:

1.) brownfield sites;
2.) significant blight and urban-level development within and surrounding the agricultural land;
3.) agricultural land in an enclave of a municipality surrounded by urban-level development; or
4.) approval of all taxing authorities.

At the time, the sponsors added a 5th exception to "grandfather in" any existing urban renewal plans containing agricultural land that were in place at the time of the bill's passing in 2010. The bill intended to protect current plans, but stop all new or renewing urban renewal plans from including agricultural land without meeting one of the other 4 limited exceptions.

The 5th exception is now being used as a loophole to include agricultural land in completely new urban renewal plans. In Loveland, for instance, the pre-2010 urban renewal plan is set to expire. The developer desires to avoid this reality by pulling approximately 150 acres of agricultural land from the pre-2010 URA plan and create a whole new one. Now the 25 year shot clock starts over. Theoretically, this could be done

over and over, thwarting the intent to keep agricultural land out of URAs, but for very limited circumstances.

This was never the intent of the 2010 legislation. SB 273 is necessary to simply close a loophole. It is not a substantive change, but rather a clarification and reaffirmation of the intent of the 2010 bill. Agricultural land contained in pre-2010 URA plans should be protected provided it remains in the originally approved plan. To be included in any new or future plans, that agricultural land MUST meet one of the other 4 limited exceptions.

SB 273 passed the house without amendments and is now headed to the Governor for his signature.

Position: Support
Sponsors: Sen. Marchman, and Rep. Boesenecker

COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# Tourism, Resorts & Economic Development

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

## HB23-1304, Proposition 123 Affordable Housing Programs

In November 2022, voters approved Proposition 123, which created new affordable housing programs funded with income tax revenue that the state is permitted to retain and spend as a voter-approved revenue change. Local governments that seek affordable housing funding from these programs must commit to increasing the number of affordable housing units within the local government by 3% annually and to developing a fast-track process to expedite development approvals for affordable housing projects. The bill modifies these affordable housing programs by:

- Allowing tribal governments to participate in the programs, subject to the same conditions for funding;
- Ensuring each program is housed in the correct department and division;
- Allowing the office to use a portion of the money in the financing fund for its administrative expenses, without increasing the total amount of money from the fund that may be used for administrative expenses;
- Clarifying that, for the affordable housing programs administered by the administrator, the area median income (AMI) and rent levels are designated for each rental unit instead of being recalculated on a monthly basis and that the average AMI calculation does not apply to the modular and factory build manufacturer debt program;
- Clarifying the description of how money is transferred or allocated;
- For purposes of the 3% growth obligation that is a condition for funding, specifying that all units from projects funded through certain affordable housing programs are counted towards the obligation;
- Allowing local governments and tribal governments to enter into a written agreement to divvy up the units that result from collaborative agreements;
- Establishing a process for rural resort communities to petition the Division of Housing to use different percentages of AMI than those percentages specified for eligibility for certain affordable housing programs funded through the financing fund;
    - As amended, the petition must be based on publicly available data sources that demonstrates the need for different AMIs via a housing needs assessment completed within the last three years.
    - DOLA oversees and approves the petition process.
- Exempting money originally from the federal coronavirus state fiscal recovery fund from the appropriations for fiscal year 2022-23 that are used to determine the state's maintenance of effort requirement; and
- Requiring OEDIT and the Division of Housing to provide three annual reports to legislative committees about the affordable housing programs.

HB 1304 passed the House and is waiting to be introduced in the Senate.

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

**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 15 or more units in urban counties and 5 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 7 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 30 calendar days and close within 60 calendar days, "to the extent practicable," and not more than ninety calendar days (tolling periods not withstanding).

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. The local government may also create a ROFR opportunity evaluation rubric based on local housing needs, though it is not required to do so.

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; to a not-for-profit mission-driven affordable housing provider who has provided notice of intent to purchase, has a history of developing affordable housing, and commits to

providing a majority of units below market rate; 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 amended, any qualifying properties for which the first Certificate of Occupancy was issued within thirty years prior to the date of a triggering event are also exempt.

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.

This section (i.e., the right of first refusal) will be repealed after five years (on August 1, 2028).

CCI has been supportive of a number of amendments adopted to shorten the timeline, clarify various definitions, and incorporate electronic notification delivery. Click here for CCI's summary of the amendments passed in the House.

HB23-1190 passed the Senate Local Government & Housing Committee and is due for floor work.

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 has passed the House and the Senate and is headed to the Governor's desk for signature.

Position: Support
Sponsors: Sen. Roberts & Sen. Rich, and Rep. McLachlan & Rep. Catlin
Final Status: Awaiting Governor's Signature

COLORADO COUNTIES, INC.
*Educate · Advocate · Empower*

# 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 **not** to concur with the Senate amendment. Instead, the bill was sent to a conference committee where the amendment in question was stripped and replaced with a CDOT study of TPR boundaries. While CCI still had some concerns, the membership voted to accept the study concept after a conversation with CDOT representatives. The bill has been signed by the Governor.

Position: Monitor as amended
Sponsors: Rep. Vigil & Rep. Bacon, and Sen. Winter F. & Sen. Hinrichsen
Final Status: Signed by Governor

**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 help deliver broadband services and should streamline broadband connectivity around the state at a time when additional federal funds are being made available. The bill has been sent to the Governor for signature.

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

**SB23-268, Additional Transparency for CDOT 10-Year Transportation Plan**

SB 268 would establish additional transparency for projects in the CDOT 10-Year Transportation Plan. The bill requires CDOT to regularly update Transportation Commission on time frames for completion and total estimated cost for each project in the plan. The bill also requires CDOT to designate a point of contact at CDOT for state and local officials who can answer questions about the status of transportation projects of importance to their region. The bill has passed the legislature and now heads to the Governor's desk for signature.

Position: Monitor
Sponsors: Sen. Mullica & Sen. Kirkmeyer, and Rep. Bird & Rep. Bockenfeld