

**GRAND JUNCTION CITY COUNCIL  
MONDAY, DECEMBER 1, 2014**

**WORKSHOP, 5:00 P.M.  
CITY AUDITORIUM  
250 N. 5<sup>TH</sup> STREET**

*To become the most livable community west of the Rockies by 2025*

- 1. Meet with State Legislators**
- 2. Municipal Legislative Issues** [Supplemental Documents](#)
- 3. David Ludlam, Western Colorado Oil and Gas Association**
- 4. 2015 Persigo Budget Calendar**
- 5. Economic Development Marketing Update**
- 6. Board Reports**
- 7. Other Business**

**City of Grand Junction  
2015 General Assembly Session**

**State legislation impacts many municipal interest and operations. The attached Colorado Municipal League Policy Statement identifies many of these issues. Below are a few that are of particular interest to the City that will likely be discussed during the 2015 Colorado General Assembly.**

**Energy Impact Funding**

Local governments impacted by oil, gas and other mineral extraction industries receive a portion of severance tax revenues and federal mineral lease revenues (see attached). DOLA distributes local governments' share of these revenues. There are two forms of distribution: the majority of the revenues are distributed by DOLA as discretionary grants; a smaller portion is distributed annually to local governments as Direct Distributions based upon certain factors. These revenues are crucial for local governments to pay for the impacts of the energy industry, primarily transportation infrastructure and public safety.

**Municipal Home Rule Authority and Local Control**

The State's Constitution allows cities and towns to become home rule municipalities by a vote of the citizens. Grand Junction is a home rule municipality; as such, Grand Junction is governed by our local citizens as opposed to the state. Local control provides cities and towns the ability to self-govern to most quickly and effectively respond to the issues that are important to the community. Important powers reserved for local governments that are home ruled are labor relations, financial and budgetary decisions, administration of sales taxes and land use decisions.

**Broadband**

Access to high-speed broadband is crucial for businesses development, recruitment and economic development. Unfortunately, Grand Junction significantly lags the state, nation, and many of our economic development competitors in internet speeds. This is detrimental not only to existing businesses and residents but also to economic development efforts. In Colorado, legislation was enacted in 2005 that prevents local governments from providing broadband services or making any investments in the needed infrastructure without a vote of the people. While it is important to ensure that local governments are not competing with private enterprise, local governments do have an important role to play in providing utility infrastructure and making infrastructure investments that promote economic development. There are several organizations that may be putting legislation forward to repeal Senate Bill 05-192 during this session (see attached).

## Energy Impact Funding

### Federal Mineral Lease (FML) Revenues

Federal Mineral Lease revenues are collected by the Federal Government and shared with the state's in which the activity occurs (51% federal; 49% state). FML revenues either come from the initial sale of leases (bonus payments) or from the value of minerals produced (non-bonus/normal payments). Colorado distributes its share of federal mineral lease revenues in accordance to state statute.

### Background on the Local Government Permanent Fund

In 2008, legislation changed the way FML revenues were distributed. In particular, future bonus payment revenues would be segregated from normal federal mineral lease revenues. This change was enacted in anticipation of the expectation of significant bonus payment revenue resulting from the Roan lease sale. Instead of distributing the Roan bonus revenues along with the non-bonus revenues, Senate Bill 08-218 reserved future bonus payments in the Local Government Permanent Fund. The Local Government Permanent Fund was intended to be a rainy day fund to supplement direct distributions to local governments. The balance would be used to supplement direct distributions of non-bonus federal mineral lease revenue when non-bonus revenues declined by more than 10%. In 2013, the balance of the fund should have been transferred to supplement local government direct distributions. However, this did not occur until 2014 when a special bill was passed to appropriate the funds.

### Roan Plateau Revenue

The Roan sale netted \$114 million in bonus revenues: \$56 million went to Colorado (49% of total); \$28 million (50% of Colorado total) went to the Local Government Permanent Fund (LGPFF) where it was supposed to be kept for backfill local government direct distributions. Unfortunately, that did not happen exactly as planned. Of the first \$36 million in bonus revenues deposited into the account (\$28 million of which was from the Roan), \$19 million was transferred to balance the general fund deficit and only \$17 million went to local governments. The \$17 million only made it to local governments because Senator Penry sponsored a bill that immediately freed up the \$17 million for a one-time special grant program.

The grant funding was distributed as follows:

- \$8 million- Town of Parachute for the US 6/170 interchange
- \$3.2 million- Mesa County and City of Grand Junction for 29 Road Overpass
- \$3 million- Southwest Council of Governments for Telecommunication Infrastructure
- \$2.8 million- City of Delta for the Highway 50 bypass

### Severance Tax Revenues

Producers and royalty owners must pay severance tax on the income from natural resource extraction. Severance tax revenues are collected by the state and split 50% / 50% between the Department of Natural Resources and the Department of Local Affairs (DOLA). DOLA then allocates 30% of the severance tax revenue for direct distributions and 70% for discretionary grants.

## Broadband

Prior to 2005, local governments in Colorado had authority to construct communications networks and to use those networks for whatever purposes deemed appropriate by the local governing body. In 2005, at the urging of large telecommunications service providers, the General Assembly passed SB-152 (codified at C.R.S. §29-27-101 *et seq.*), prohibiting local governments from providing cable, telecommunications or advanced services (basically defined as anything slightly faster than dial-up), including entering into public-private partnerships and leasing conduit or fiber to private companies. SB-152 provides that local authority can be restored by a vote of local citizens.

SB-152 has limited or reduced deployment of broadband, wireless services and competition, especially in more rural areas of the state, and has caused millions of dollars in private sector capital investment to go elsewhere. For example, Google is investing in fiber-to-premises projects, providing gigabit connectivity at reasonable costs, in many U.S. cities, but only in states without statutory barriers for municipal participation. A non-profit organization called Gig.U has brought millions of dollars in private investment to university communities around the United States, but SB-152 barred such investment in Colorado.

Citizens of several municipalities and counties in Colorado have voted to override SB-152 – most have been “landslides” that cross party lines. Some (like Longmont) want to become internet service providers, but many others simply want to retain the flexibility to use public infrastructure as economic incentives to support private sector deployment to bring better internet connectivity to their citizens.



Colorado Municipal League  
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[www.cml.org](http://www.cml.org)

## 2014-2015 POLICY STATEMENT

### About the CML policy statement

CML supports cooperation among local, state, and federal officials to provide a strong partnership with Colorado's cities and towns. CML employs a dedicated advocacy team, a reliable source of information about legislative issues and their impact on Colorado's cities and towns and their residents.

The CML Policy Statement has evolved throughout the history of CML and guides the CML Executive Board, committees, and advocacy team during the legislative session and throughout the year. The CML Policy Committee, which is open to representation from each municipal member and CML section, is charged with developing policy recommendations and proposing amendments to the Policy Statement. During the business meeting (held each year at the CML Annual Conference), CML members consider any recommendations and adopt the Policy Statement for the next year.

The CML Policy Statement consists of several major policy items, but is not all inclusive. When legislation or policy issues are considered, the CML staff, Policy Committee, and Executive Board look first to the Policy Statement to develop recommendations and formal positions. If a specific issue is not found within the Policy Statement, then the Policy Committee and the Executive Board will consider and establish a CML position, if any.

We welcome input and suggestions from members on CML policy and positions. We remain proud to be your source for advocacy, information, and training.

If you have questions or comments about CML policies, please contact Kevin Bommer, legislative advocacy manager, at [kbommer@cml.org](mailto:kbommer@cml.org), 303-831-6411, or 866-578-8175.

### Local control and municipal home rule

In order to consider local conditions and address local desires, community issues and needs should be addressed locally. State and federal government interference can undermine home rule and local control. Therefore, the League:

- Urges state and federal officials to respect Colorado's tradition of local control and allow municipal officials to address local problems without interference from the state and federal government.
- Urges congress and the executive branch to respect the roles and responsibilities of states and local governments and similarly urges state officials to avoid preempting local authority.
- Supports state enabling legislation that provides municipalities with authority and flexibility to address local needs.
- Recognizes the desire of the citizens statewide and in many local communities, with adoption of a constitutional amendment in 1902 and expanded amendments approved in 1912 and 1970, to establish municipal home rule and opposes state action that attempts to weaken home rule authority and flexibility.

### Intergovernmental cooperation

Citizens are best served when officials of federal, state and local government (including municipalities, counties, special districts and school districts) respect the roles of each entity and work toward common solutions. Therefore, the League:

- Supports increased dialogue and cooperation among federal, state and local officials and the development of cooperative intergovernmental solutions to common problems.

### State and federal mandates

Programs and regulations mandated by the state or federal government stretch the financial resources of municipalities. These costs, if not paid by the state or federal government, prevent municipalities from fulfilling local needs and priorities. Therefore, the League:

- Opposes unfunded state and federal mandates that impose financial burdens on municipalities and their citizens.
- Supports the requirement for the General Assembly and Congress to reimburse municipalities for the cost of state mandates, and to make more clear this requirement in state fiscal notes prepared for the General Assembly and Congress.

### State fiscal fair play

Municipal finances are closely interrelated with state finances and policies. State adherence to fiscal fair play policies will greatly help municipalities and their citizens. Therefore, the League:

- Supports appropriate action to address the state and local financial crises caused by the interaction of various constitutional amendments and the economy.

- Supports continued state sharing with municipalities of equitable portions of existing and future revenues derived from traditional state-collected, municipally-shared sources.
- Urges the state to avoid or exercise restraint in relying on fees, charges and other cash funding of programs that affect municipalities, especially in the areas of technical assistance, in programs where municipal participation is mandated by state law, and in regulatory programs that affect municipalities.
- Opposes state-granted exemptions or other state actions that erode municipal sales, use, property and other revenues unless the state provides adequate replacement revenues.
- Opposes disproportionate cuts in state programs that benefit municipalities.
- Opposes the state utilizing local funds or requiring local governments to collect state revenues in order to fund state programs.

### **Sales and use taxes**

The primary revenue sources for municipalities are local sales and use taxes. Statewide, municipalities generate more than \$5 in these taxes to every \$1 of property taxes. Sales and use taxes have enabled municipalities to fund public services and improvements and keep municipal property taxes relatively low. Appropriate actions at federal, state and local levels should preserve or enhance these local revenues. Therefore, the League:

- Supports retention of authority for all municipalities to set local tax rates and for home rule municipalities to collect their own taxes and determine their own tax bases.
- Supports broadening the state sales and use tax base.
- Supports appropriate legislation or court action allowing state and local governments to require businesses to collect state and local sales and use taxes on remote sales.
- Supports cooperative efforts among municipalities to standardize municipal sales and use tax practices and utilization of technology for the convenience of taxpayers, the business community, and municipalities.
- Opposes further reductions in the state and local sales and use tax base.
- Opposes legislation that would preempt the authority of state and local governments to apply their sales and use taxes to remote sales.

### **Miscellaneous finance issues**

The League:

#### **Capital financing**

- Opposes any efforts to abolish or impair the effectiveness of the municipal bond interest exemption.
- Supports enhancement of municipalities' flexibility to finance public projects economically and efficiently.

#### **Double taxation**

- Supports state legislation and local practices that eliminate the financial inequities created by the imposition of taxes on municipal residents for county services that are provided primarily or solely to residents in unincorporated areas.

#### **Federal policies**

- Supports distribution of federal funds to municipal governments with a minimum of red tape and without excessive diversion at the federal and state levels.
- Supports establishment of advisory committees comprised of local government officials to ensure ongoing local input on state assumption and administration of federal programs that affect local governments.
- Supports continued funding of the Community Development Block Grant program.
- Supports continued direct funding of federal housing programs.
- Supports funding the Energy Block Grant program.
- Supports repeal of the Davis-Bacon Act or revisions thereto, including raising the project exemption amount, to eliminate wasteful red tape and enable state and local governments to stretch tax dollars for public works projects.
- Supports repeal or revisions in the application of the Fair Labor Standards Act to local governments to avoid the Act's costly and burdensome impacts on local government operations.
- Encourages recognition of Colorado's unique economic, social and physical characteristics when federal action affects programs or projects of local concern.
- Opposes the direct or indirect taxation of the activities and operations of municipal government.
- Opposes tax reform proposals that would exacerbate the federal deficit, increase the cost of municipal capital investment, interfere with traditional state and local tax systems or preempt the deductibility of state and local taxes.
- Opposes the denial of funds based upon a state's or municipality's failure to meet requirements of an unrelated program or because of factors beyond the control of the state or municipality.
- Opposes cuts in federal programs that disproportionately affect municipalities.

- Opposes imposition of federal standards upon local government operations and employees that do not apply equally to federal and state government operations and employees.
- Opposes the sale of federal lands to finance federal programs without local input.

### **Consolidation of governments**

The League supports voluntary consolidation of local government entities and services by mutual agreement.

### **Criminal justice**

The League:

- Supports state- and community-based intervention, prevention and rehabilitation programs and state initiatives that respect the key role of communities and local government officials.
- Supports ensuring that municipal governments retain flexibility in implementing federal and state criminal justice programs.
- Opposes state preemption of municipal authority to regulate firearms within municipalities.

### **Economic development**

The League:

- Encourages the state to provide adequate funds and staff for a strong, multifaceted program to promote the economic vitality of Colorado. This program should encourage the diversification and expansion of local economies, including support for existing business, creation of new jobs and promotion of tourism. The program should be closely coordinated with local governments and the state should never promote a specific economic development project against the wishes of the community or communities most directly affected by the project.
- Encourages the federal government to support state and local government activities promoting economic development.
- Encourages a comprehensive effort among state and local governments and the private sector to establish an effective tourism promotion program.

### **Education:**

The League believes an effective education system supplies our municipalities with an educated and well-trained community and workforce who will both allow existing businesses to expand and attract new business investment. The most effective programs are those partnerships among our educational institutions, local stakeholders, and local governments. Due to its importance to our communities, the League supports education as a communitywide value. Specifically, the League:

- Supports state and local policies and initiatives that encourage greater early learning, K-12, higher education, workforce training opportunities, and lifelong learning opportunities.
- Supports access to information and resources that help parents and caregivers give students the greatest chances to learn and grow in safe and healthy ways.
- Supports state initiatives that enhance creative and innovative partnership opportunities with businesses and educational institutions, including shared facilities, school resource officers, and enhanced programming.
- Supports funding of education in the state in a balanced manner which takes into consideration the needs of all sectors of the economy and yet not at the expense of municipal revenues.

### **Electric and natural gas services**

The League:

- Opposes federal or state restrictions that would limit the ability of municipalities to create new municipally owned utilities.
- Opposes federal restrictions that would dictate territorial service areas or restrict the ability of municipally owned utilities to service customers within their municipalities, including newly annexed areas.
- Opposes federal legislation requiring states to implement retail competition.
- Opposes federal or state restructuring of the electric or natural gas industry if such restructuring restricts municipal authority to regulate the use of rights-of-way and to franchise and tax utilities and services, interferes with services provided by municipally owned utilities, fails to protect interests of all consumer classes or sacrifices environmental and social objectives protected under existing regulatory policies.
- Opposes efforts to prevent municipalities from extending utility services to newly annexed areas, or providing utility services to customers in unincorporated county properties adjacent to the municipality.

### **Emergency services**

The League:

- Supports local control of local emergency services and involvement of the state as a resource to local government in the areas of information, coordination and training.
- Supports state funds for those state agencies that serve as a resource to local emergency services.

- Supports a voluntary uniform statewide fire incidence reporting program.
- Supports close cooperation at all levels of government and increased federal funding to assist local government homeland security and first responder responsibilities.

## **Energy**

### **Energy planning**

The League recognizes several compelling reasons for developing a comprehensive energy policy. Energy conservation saves dollars. Energy conservation and renewable energy production creates jobs and supports local economic development efforts. Energy conservation reduces our nation's dependence upon foreign oil and improves our energy security. Municipalities are in a position to lead by example. Municipalities are able to provide education and access to information that advocates the economic and environmental benefits of increased energy efficiency. Therefore, the League:

- Supports the development of a balanced, long-term statewide energy plan with an overall goal of reducing greenhouse gas emissions through a mix of non-renewable fossil fuels, renewable energy sources, and energy efficiency and conservation programs.
- Supports the creation and expansion of statewide goals that provide targets and incentives for the implementation of renewable energy strategies and that also recognize the unique concerns of municipal electric and gas systems.
- Supports municipal efforts to assess energy efficiency opportunities in their own operations and in their communities as a whole; setting energy efficiency targets; and creating local action plans.
- Supports retrofitting municipal facilities with energy efficient technologies; policies that enhance municipal energy conservation; and programs that promote the generation of alternative energy sources.
- Supports working with appropriate state and local agencies to educate municipalities on the use of energy efficient building codes.

### **Natural resource production**

Municipalities are directly and indirectly affected by the impacts of energy extraction activity and understand the boom and bust nature of it. The League also acknowledges the importance of the extraction industry to the state's economy. Therefore, the League:

- Supports enhanced local input and mitigation powers of municipalities in addressing the environmental and economic impacts of energy extraction.
- Supports the State Oil and Gas Conservation Commission involving substantively local governments affected by energy extraction, including a recognition of local health and environmental impacts.
- Supports a continued dialogue with local governments regarding the collection and distribution of severance tax and federal mineral lease revenues.
- Supports raising the severance tax rate and removing severance tax exemptions in order to generate additional revenue for local governments.
- Supports DOLA's continuing administration of the Energy Impact Loan and Grant program to assure greater transparency and accountability of the funds.
- Supports the development of a permanent trust fund using a portion of existing and/or any new revenues from severance taxes and/or federal mineral lease revenues so long as such revenues in a trust fund can be made available to municipalities and counties impacted by energy extraction.
- Opposes any reduction in the existing revenue streams of severance tax and federal mineral lease revenue to counties and municipalities.
- Supports financial and technical assistance to local governments affected by the development of coal, oil shale, and other natural resources to permit planning for, and provision of, municipal services and facilities.
- Opposes the appropriation of energy impact and mineral lease funds, historically set aside for local governments, to finance state programs and administrative costs of state government.

## **Environment**

In addressing environmental concerns, the League:

- Supports relief for municipalities from the burden of Superfund (CERCLA) requirements and application of a reasonable municipal settlement policy by the Environmental Protection Agency.
- Supports federal and state programs that encourage cleanup and reuse of "brownfield" property.
- Supports full federal funding for cleanup of contaminated federally owned or managed sites, such as Rocky Flats.
- Opposes increases in the proportion of municipal cash funding support for state environmental programs.
- Opposes state preemption of local government authority to adopt environmental ordinances.



## **Housing**

The availability and affordability of decent housing is an important concern to Colorado's municipalities. Therefore, the League:

- Supports an adequate supply of good housing, regardless of income level, and continued public- and private-sector support for such an effort.
- Supports increased financial assistance from the federal government for housing needs of low- and moderate-income families.
- Supports state financial support for the Division of Housing's loan and grant program for low- and moderate-income housing.
- Supports the continued efforts of the Colorado Housing Finance Authority to work with municipalities on the Authority's various housing loan programs.
- Supports the preservation, revitalization and redevelopment of existing neighborhoods.
- Supports public and private financial assistance programs to address the needs of the homeless.
- Supports programs that involve municipalities in addressing foreclosures.
- Supports the creation of an adequately financed statewide housing trust fund.

## **Human rights**

The League supports programs that protect the rights and dignity of the individual and encourages programs that address such issues as employment, housing, health care, substance abuse and equal opportunity.

## **Initiative reform**

The League supports efforts to reform the state's initiative and referendum procedures.

## **Lottery**

The League supports preserving all lottery proceeds for park, recreation, open space and wildlife purposes pursuant to the Great Outdoors Colorado program adopted by Colorado voters.

## **Municipal court operations**

The League:

- Opposes imposition of state surcharges on municipal court fines for the purpose of funding state programs.
- Opposes limitations on the authority of municipalities to enforce their own ordinances in municipal courts.

## **Municipal development and land use**

The League supports local control and determination of local land use issues. In general, the League supports state laws and policies that encourage new residential, commercial and industrial development to occur within existing municipalities and that discourage the sprawl of urban, suburban or exurban development into rural and unincorporated areas of the state. In addition, the League specifically:

- Supports prohibition of the incorporation of new cities and towns adjacent to, or within the service areas of, existing municipalities.
- Supports increased municipal and, within unincorporated areas, county controls over the formation of special districts, placing additional limitations on the powers exercised by such districts and, where practicable, providing for the dissolution or phasing out of special districts.
- Supports appropriate efforts to permit application and enforcement of municipal ordinances, such as building codes, fire codes, subdivision regulations and zoning ordinances, to buildings and improvements proposed to be constructed by government entities.
- Supports municipal discretion concerning the imposition of development fees and requirements.
- Supports the clear authority of municipalities to collect an impact fee for schools.
- Supports financial and technical assistance to municipal governments in the areas of planning and land use.
- Supports municipalities, when appropriate, in utilizing sub-local governments (neighborhood, nonprofit, and civic organizations and homeowners' associations) in developing and implementing solutions to specific localized issues.
- Encourages measures that promote intergovernmental cooperation on land use issues.
- Encourages coordination of land use and transportation planning.
- Encourages municipalities when using tax increment financing to promote communication and intergovernmental cooperation with affected local governments.
- Generally opposes efforts to restrict municipal authority to annex territory.
- Opposes delegation of municipal land use authority to state agencies or preemption of municipal land use controls.

- Opposes federal or state restrictions, beyond those constitutional restrictions that have been defined by recent Supreme Court decisions, on the ability of federal, state or local governments to regulate private property or to exercise the power of condemnation for the benefit of public health, safety and welfare.
- Opposes unreasonable restrictions on urban renewal authorities.

### **Police, fire, and other pension and employee benefits**

The League:

- Supports continuation of state matching funds to assist in retiring unfunded liabilities that accrued under the old police and fire pension plans.
- Supports equitable levels of state funding for volunteer firefighters' pensions.
- Opposes mandates that increase the cost of or create inequities among municipal employee pension, workers' compensation or other employee benefits.
- Opposes mandated Social Security or Medicare coverage for public employees, mandated benefit levels or funding standards for municipal employee pension plans, or other unreasonable burdens or restrictions in connection with the administration of municipal employee benefit plans.
- Opposes mandated so-called "Police Officers Bill of Rights" interfering with the management and budget prerogatives of local governments.

### **Postal service**

The League supports legislation and administrative action by the United States Postal Service requiring use of mailing addresses and ZIP codes that reflect the corporate boundaries of cities and towns in order to eliminate confusion among citizens and businesses and to reinforce community identities.

### **Privatization**

The League supports the use of private-sector businesses to provide public services when determined by municipal officials to be in the public interest.

### **Public employment**

The League opposes efforts to interfere with a municipality's ability to determine the terms and conditions of municipal employment.

### **Public liability**

Because of the financial burdens caused by the increasing number of lawsuits against municipalities and their officers and employees, the deterrent that litigation presents to continued service by public officials and the need to assure that municipal liability does not impair the provision of necessary services to the public, the League:

- Supports the availability of public liability insurance at reasonable costs and the ability of municipalities to reduce such costs through self-insurance or other reasonable means.
- Supports reasonable federal limitations on and reduction in the liability for monetary damages payable by public entities and public employees in suits brought under federal laws.
- Supports limitations on the liability of municipalities and their officers and employees.
- Opposes efforts to expand the liability of public entities and public employees.

### **Purchasing**

The League supports the authority of municipal officials to determine local purchasing and contracting procedures.

### **Telecommunications**

The League:

- Supports the retention of municipal regulatory authority over cable television systems.
- Supports affordable access by all municipalities to state-of-the-art telecommunication and information services.
- Opposes federal or state restrictions on local control of municipal rights-of-way or on the authority of local governments to develop or acquire their own telecommunications infrastructure.
- Opposes federal or state restrictions on municipal franchising, regulatory and taxing authority over telecommunications systems.

### **Transportation**

The League:

- Supports increased funds to finance pressing surface transportation needs as long as an equitable portion of new revenues is returned to cities and towns.

- Supports state Department of Transportation assumption of street lighting and general maintenance costs on state highways within municipalities.
- Supports limitations on "off-the-top" diversions from the Highway Users Tax Fund.
- Supports preservation of the constitutional requirement that highway user revenues be used for the construction, maintenance, and supervision of the public highways of the state, comprising all modes including facilities for air, transit, bicycle, and pedestrian travel.
- Supports greater flexibility and increased revenues for multi-modal transportation systems.
- Supports clarification that federal railroad laws do not preempt local governmental authority to protect the safety and environment of citizens.
- Supports preservation of the federal funding guarantees for transportation and allocation of all federal transportation taxes and funds for their intended transportation purposes.
- Supports efforts to improve air transportation throughout Colorado.
- Supports close cooperation among Colorado Department of Transportation, counties, municipalities and interested stakeholders in improving Colorado's multi-modal transportation system.
- Encourages a balanced state transportation policy that addresses the need to maintain and expand roadway, bicycle, pedestrian, transit, carpool/vanpool and demand management options to improve Colorado's transportation system.

## **Water**

In addressing statewide water concerns, the League:

- Supports water policies that protect Colorado water resources.
- Supports the constitutional doctrine of prior appropriation and the constitutional priority given to domestic water use.
- Supports the inventorying and protection by municipalities of their water rights.
- Supports appropriate water conservation efforts and sustainable water resource management practices by all users.
- Supports efforts to increase knowledge of water-related issues of concern around the state to municipalities.
- Supports participation in statewide discussions of water use and distribution.
- Supports appropriate coordination of municipal water use with other uses including agriculture, mineral resource development, energy development, recreation and open space.
- Supports federal and state financial aid programs assisting municipalities, including recognition of the special needs of smaller municipalities, with the construction and improvement of water systems to protect water quality and to comply with federal and state mandates.
- Supports continued federal and state funding for wastewater treatment and drinking water facilities to reduce local costs and expedite construction of necessary treatment and collection facilities.
- Supports stakeholder input and involvement in developing laws and regulations related to water and wastewater issues.
- Supports reasonable and practical application of air and water pollution control laws by federal and state administrative officials and encourages restraint in modifying legislation and regulations that have a fiscal impact on municipalities. Particularly in the area of water quality, enforcement should be correlated with the availability of funds necessary to achieve stated goals.
- Supports adequate state regulation and enforcement of drilling and mining sites, production facilities and waste product storage and disposal facilities; supports practices to assure citizen safety, environmental protection and the protection of domestic water sources; and opposes state preemption of local land use and watershed regulations.
- Encourages on-going communication by federal land managers with affected municipalities regarding the leasing of federal lands that might impact local land use and environmental policies including, but not limited to, local watershed ordinances.

## **Youth**

The League:

- Supports municipal and other efforts to address youth issues and needs.
- Recognizes the influence that parents in partnership with nonprofit and religious organizations, local businesses and other governmental jurisdictions have on the development of youth.
- Encourages utilization by public schools in cooperation with local governments of League-published or other civics curriculum to educate students in state and local government.

## The Colorado Municipal League

CML was founded in 1923 to provide technical assistance and advocacy on behalf of our municipal membership. There are 265 cities and towns that are members of the League. The CML Policy Committee is responsible for developing policy recommendations and recommended positions on legislation. Every municipal member has the option to have a representative on the CML Policy Committee. A 19-member Executive Board governs the operations of the organization. The League has 24 sections (i.e., planning officials, police chiefs, city managers) and 14 regional districts that provide input and technical expertise in development of League policy.

### Executive Board Officers

President Charles Bayley, Bennett mayor pro tem

Vice President Christina Rinderle, Durango councilmember

Secretary/Treasurer William Bell, Montrose city manager

Immediate Past President Marc Williams, Arvada mayor

Matthew Applebaum, Boulder mayor

Debbie Brinkman, Littleton councilmember

Kim Cancelosi, Frisco councilmember

Robb Casseday, Greeley councilmember

Mary Cooper, Delta mayor pro tem

Carol Dodge, Northglenn councilmember

David Edwards, Palisade mayor pro tem

Joe Gierlach, Nederland mayor

Eric Grossman, Creede mayor

Kathy Hodgson, Lakewood city manager

Sarah Levison, Longmont councilmember

Deborah Ortega, Denver councilmember-at-large

Patrick Rondinelli, Ouray city administrator

Dave Sturges, Glenwood Springs mayor pro tem

Karen Weitkunat, Fort Collins mayor

## Colorado Municipal Facts

Number of incorporated municipalities: 271

Population (2011 estimates)

State: 5,118,526

Municipal: 3,756,492

Municipal as percent of state: 73.4%

Range in municipal population:

Lakeside: 8 Denver: 620,917

Municipalities with CML membership: 267

### Structure of Colorado municipal governments

Structure	#	Population	% of Pop.
Home Rule	100	3,497,988	93.12%
Statutory	170	257,515	6.86%
Territorial Charter	1	989	0.03%

Number of municipalities with city/town manager or administrator: 177

### Municipal elected officials

Mayors, councilmembers, trustees: 1,749

Percent of elected officials who are women: 30%

### Sources of municipal tax revenue (2009)

Total tax revenue: \$2,092,687,656

Property taxes: \$316,886,670 15.1%

Sales/use taxes: \$1,551,478,978 74.1%

Total taxes as % of total revenue 64.4%

### Property tax (2012)

#### Assessed Valuations

State: \$108.16 billion

Municipal: \$54.95 billion

Municipal as percent of state: 51%

### Sales tax (2014)

Total municipalities levying a local sales tax: 222

Municipalities with self-collected sales tax: 73

Low: 1% High: 5%

### Municipal elections (1993-April 2014)

Ballot Issues	Passed	Failed	% Passed
TABOR Revenue and			
Spending Changes	466	72	87%
Municipal Tax/Tax Rate	433	326	57%
Municipal Debt/Obligation	275	126	69%
Term-Limits	112	84	57%

Compiled by the Colorado Municipal League, May 2014

# Action Items

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## **Affordable Housing: Division of Housing Budget Line Item**

The Division of Housing in the Department of Local Affairs is requesting an increase of \$3.42 million General Fund per year to develop 300 additional affordable rental housing units and provide 200 rental vouchers for seniors and persons with disabilities. At proposed funding levels, 4,120 new affordable units can be developed annually. CML has supported increases in the past as we have a position of support for any increased funding for affordable housing. **Staff Recommendation: Support.** *Lobbyist: Meghan Dollar*

## **Gaming: Internet Sweepstakes Cafes**

Last year the Colorado Gaming Association (CGA) introduced a bill to ban internet sweepstakes cafes in the state. The legislation clarified that this practice was unconstitutional and provided criminal penalties associated with the establishments. The bill was defeated in the Senate. Many consider the computers in these cafes as simulated gambling devices used to award prizes to customers. The Attorney General agrees with that assessment and released a decision that these cafes are unconstitutional. CML staff also agrees that these cafes do not meet the requirements of Colorado's constitution, and the money put into these machines neither goes to lottery nor limited gaming funds. In that light, we view them the same as Video Lottery Terminals and oppose their use. CGA is planning to introduce the same legislation as legislation and staff recommends support. **Recommendation: Support.** *Lobbyist: Meghan Dollar*

## **Special Districts: Fire district exclusion process**

*\*\*Note: This item originated as a proposal by the Towns of Frederick and Firestone, and the Policy Committee voted in October to recommend to the CML Board that CML initiate legislation to remove one section of language from statute pertaining to "quality of service" standards applicable to special district exclusions. The CML Board subsequently voted at a meeting on October 30 to refer the issue back to the Policy Committee for further deliberation, due to additional information available following the October committee meeting. In particular, the committee is directed to consider whether or not the League should be asked to support an otherwise good legislative concept that may be perceived as CML "picking sides" in the related annexation disagreements between CML members. Because this issue was initiated as a member proposal, it does not carry a CML staff recommendation.*

The special district exclusion statute sets forth a process by which a municipality may exclude a service district from its territory. This often occurs following annexation, when the municipality seeks to have a single service providing district for the municipality. The exclusion statutes contain language conditioning an exclusion on the municipality being able to assure a similar quality of service. In a proposal growing out of annexation conflicts between municipalities, Fredrick and Firestone propose to remove some (but

not all) of the quality of service language from the exclusion statute. The towns argue that the quality of service language has been used to wrongfully frustrate their exclusion efforts. **Staff recommendation: N/A. Lobbyist: Geoff Wilson**

**Transportation: Off-road vehicles**

Colorado Counties, Inc. (CCI) is moving forward with a bill that would set statewide standards for off-road vehicles (ATVs) that would be allowed on county roads - if individual counties choose to allow them on their roads. Staff believes that even if the legislation only applies to counties, it may create positive impacts in municipalities within those counties. Staff will provide an update on bill language and discuss impacts. **Staff recommendation: Support. Lobbyist: Mark Radtke**

**Urban Renewal: Mandated revenue sharing**

CML adopted a position during the last legislative session to "oppose legislation that reduces the effective use of tax increment financing for urban renewal projects." When CML representatives requested CCI's support of the League's compromise urban renew legislation (an update will be provided to the committee), we were subsequently told that mandated revenue sharing is CCI's number one priority on this issue and that CCI is likely to oppose CML's bill. Given that, staff expects to see legislation that includes mandated revenue sharing. If so, the position from last session is proposed to be continued forward. **Staff recommendation: Oppose. Lobbyist: Mark Radtke**

**Water & Wastewater: Promotion of water conservation in land use planning**

Sen. Ellen Roberts (R-Durango), the incoming Senate President Pro Tem, will be the prime sponsor on legislation that passed the Water Resourced Interim Review Committee dealing with water conservation and land use planning. Unlike previous legislation that inserted the state into local land use planning decisions, this legislation – once amended with language drafted with the cooperation and assistance of CML staff – will not create friction between the state and local governments over land use authority. Staff believes this a reasonable compromise that includes existing practice as an element of required water conservation plans, as well as creates state-funded land use training for any local planners that desire additional knowledge in land use planning targeted on reduction of water consumption. **Staff recommendation: Support. Lobbyist: Kevin Bommer**

**Water & Wastewater: Stormwater Management and Water Rights**

Recently, the State Engineer has indicated that stormwater facilities that detain water for the purpose of preventing destructive high flows and release of pollutants will require every facility to obtain a water court decree for an augmentation plan. The decision is based on the notion that detained water is – at a basic level – equates to water being taken out of priority and that the augmentation plan would make whole those that would otherwise be injured. Curiously, a rule known as the "72-hour Rule," has been

understood to be the basis for allowable detentions and many stormwater facilities have been specifically constructed under that premise. The curve ball from the State Engineer threatens the ability of regional stormwater facilities to manage stormwater to protect public health and safety as required by state and federal law. Legislation may be introduced during the 2015 session to clarify that this vital and protective activity should not be subject to control of the State Engineer and the water court process, so long as the stormwater is detained on long enough to avoid damaging flow rate and is not subject to any intervening use. **Staff recommendation: Support.** *Lobbyist: Kevin Bommer*

## Information & Discussion Items:

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### **Elections: 2015 legislation**

The last two sessions have seen passage of major elections legislation. We expect 2015 to be a quiet year. A bill will be introduced obliging ballots in municipal elections to be distributed pursuant to the requirements of UOCAVA, a federal law aimed at facilitating voting by overseas military personnel. Last year, this requirement was extended to special district elections, and it already applies in most elections conducted by the county clerks. CML staff and Aurora deputy clerk Karen Goldman have been invited by the sponsor and the legislative drafting office to assist in drafting this legislation. The draft legislation is not yet complete, but considerable progress has been made. A bill addressing the dollar amount of expenditures or contributions that triggers the need to form an "issue committee" in any election (including municipal elections) may well be introduced, in the wake of court decisions that leave this area uncertain. A special district bill concerning recalls may provide an opportunity to resolve a defect in the municipal recall statute that was also revealed in a recent court decision. *Lobbyist: Geoff Wilson*

### **Gaming: Internet Sweepstakes Cafes**

Last year the Colorado Gaming Association (CGA) introduced a bill to ban internet sweepstakes cafes in the state. The legislation clarified that this practice was unconstitutional and provided criminal penalties associated with the establishments. The bill was defeated in the Senate. Many consider the computers in these cafes as simulated gambling devices used to award prizes to customers. The Attorney General agrees with that assessment and released a decision that these cafes are unconstitutional and illegal. CML staff also agrees that these cafes do not meet the requirements of Colorado's constitution, and the money put into these machines neither goes to lottery nor limited gaming funds. In that light, we view them the same as Video Lottery Terminals and oppose their use. At this time no state legislation is being pursued because representatives from the Attorney General as well as District Attorneys have stated they will begin enforcement against these businesses. How that looks remains to be seen. Some municipalities have already enacted prohibitions on internet sweepstakes cafes. *Lobbyist: Meghan Dollar*

### **Housing: Construction Defects**

For the last few years, the homebuilding industry has raised concerns with current Colorado construction defect laws. The argument is that Colorado's restrictive laws have greatly increased lawsuits and liability for developers. Developers are unable to get insurance that will cover their potential liability therefore it is no longer lucrative to build home owner occupied multifamily housing. Last year, a coalition made up of the business community and affordable housing advocates attempted to move legislation forward aiming to ease the liability born by developers. The legislation was unsuccessful, but the coalition aims to run legislation in 2015. Currently, the bill is still in draft form. It's in the hope of the proponents to have a larger focus on alternative dispute resolution before raising suit. Additionally, the proponents would like to see a super



majority vote by home owners before moving forward with a lawsuit. The bill will also be clarified to alleviate the concerns of the trail lawyers that it demands binding arbitration. Whether this will prevent them from opposing the idea remains to be seen. CML supported the construction defects bill in 2014. *Lobbyist: Meghan Dollar*

**Oil and Gas: Task force recommendations**

A Governor's Task Force is currently examining whether and to what extent local authority to regulate this industry ought to be enhanced. The recent election giving the Republicans control of the state Senate makes it quite unlikely that any oil and gas legislation concerning this or any other aspect of this industry's community impacts will make it to the Governor's office in 2015. Nonetheless, bills could be introduced in the Democrat-controlled House in order to raise the profile of various issues. At this point, it is far from clear what those issues might be. Expect a lot of fireworks in the media around this issue as the session approaches. *Lobbyist: Geoff Wilson*

**Public Safety: Massage Parlor Code**

In 1977 the State of Colorado enacted the Colorado Massage Parlor Code (Code). The intent was to help combat prostitution and human trafficking. The code is not a regulatory program through the State, but granted local governments the authority to enact ordinances regulating massage parlors. Through the years, the code has been updated to reflect changes in regulatory programs in the Department of Regulatory Agencies (DORA). In 2008, Senate Bill 08-219 was enacted creating the Massage Therapy Practice Act which regulated all massage therapists at the state level. The Massage Parlor code is set to sunset in 2015 therefore DORA staff conducted a Sunset Review of the Code. A survey was sent out to municipalities, counties, and law enforcement to see if the code was still used by localities. They received 52 responses, mostly from municipalities. Most did not enforce or use the code, but often chose typical law enforcement methods to deter prostitution and human trafficking through these businesses. As a result of the survey, DORA staff is recommending that the code sunset since it is not often used and conflicts with the Massage Therapy Practice Act. Staff is gathering information on what kind of negative impact, if any, would this have on statutory towns interested in utilizing the massage parlor code. The sunset of this code would not affect home rule municipalities. Staff has concerns regarding the sunset of a local tool, however, also realizes that this tool is not often used by municipalities. Additionally, once DORA began regulating massage therapists, many municipalities have noted that the code is less useful as localities can no longer license employees in massage parlors. Staff is looking for feedback on this issue in order to move forward in the direction most appropriate for CML's membership. *Lobbyist: Meghan Dollar*

**Public Safety: Healthcare Costs while in Custody**

Due to legislation passed in 2003, the counties are not currently liable to pay healthcare costs for pre-existing conditions of those serving time in county jails. As there are a few municipalities with their own jails, in 2011 CML was approached to support legislation to give municipal jails the same coverage as county jails. The CML policy committee voted to take a support position on this legislation. Unfortunately, the Colorado Association Chiefs of Police (CACCP) introduced legislation that went beyond just municipal jails, but

also added that law enforcement was not liable for conditions that occurred while in police custody. CML went neutral on that legislation and it was not passed. CACP was interested in running legislation in 2015 on healthcare costs for those in jail. They were unable to find a solution the association agreed on and therefore opted not to run legislation in the next session. *Lobbyist: Meghan Dollar*

**Public Safety: Red Light Cameras and Photo Radar**

Per the request of the Colorado Association of Chiefs of Police, a series of meetings were held in the interim to prepare for any legislation to ban the use of red light cameras and photo radar vans. The stakeholders included municipal law enforcement, the vendors, and CDOT. The intent was to meet with all the cities and create a portfolio that shows that the cities have met and are intent to work together to encourage due process, and consistent implementation. Every city that has these tools participated in the meetings at some point. The outcome is a portfolio to show their usefulness as a tool as well as how they are implemented in each municipality. As a whole, most municipalities implement their systems similarly. Dustin Varney, a commander with Greenwood Village, is completely the report for later this year. It should be clear that this was developed for use only if legislation is introduced. It was not the group's intention to move forward with legislation. CML staff took part in these meetings to offer legislative guidance. *Lobbyists: Mark Radtke and Meghan Dollar.*

**TABOR: Clarifications for emergencies**

Last year, CML initiated successful legislation to clarify where TABOR does not apply in disaster emergencies. It clarified that the state grants of federal monies remain federal funds for purposes of local fiscal year spending, and that such grants are not state grants for purposes of the enterprise test. Staff had hoped to get both parties to look at a concurrent resolution to take to the voters to help struggling local governments in a series of TABOR issues.

Below were CML's goals:

- In the event of an emergency, allow a government to have a TABOR election on any date for purposes of obtaining additional resources to address any need caused by the emergency;
- Define state grants given to a local government for aid or mitigation of damages as a consequence of a disaster as gifts or damage awards that are excluded from the definition of local fiscal year spending;
- Exclude state grants for emergency response and recovery from the enterprise compliance test; and
- Clarify that emergency reserves need not be immediately restored and specify the number of years permitted for restoration
- Eliminate the exclusion of property taxes from permitted emergency taxes.

Unfortunately, the legislature was not able to move forward with this referred question. The new Chair of the Joint Budget Committee is Senator Kent Lambert (R-Colorado Springs). Last year he supported the idea of clarifying some of TABOR for emergencies. CML intends to work with Sen. Lambert and the rest of his colleagues in the Senate and House to address these needed, narrow changes to TABOR. *Lobbyist: Meghan Dollar*

**Telecommunications: Broadband**

We are hearing increasing dissatisfaction from our members all across the state, with the poor broadband service available in their cities and towns. At the November elections, voters in several counties and municipalities voted to have their governments get involved in addressing this problem. The very requirement that an election must be held before local government can get directly involved in addressing the problem is itself objectionable. There may be legislation introduced in the 2015 session to address this election requirement, also known to many as the "SB-152" requirement, after the 2005 legislation that created it. SB-152 was pushed through by cable giant Comcast, as part of a multi-state strategy to prevent "unfair competition" from local governments that may wish to address poor service quality locally. The local election requirement is also strongly supported by telephone giant Century Link. Inadequate broadband service is an issue that we share with the counties, as rural areas of our state suffer some of the worst service. In November, for example, we witnessed the absurdity of Yuma County having waste scarce public funds on an election to ask its voters for permission to "compete" against an indifferent, remote company that provides indifferent, inferior service, in order to address citizen demands for better service. CML and CCI staff are having regular conversations about opportunities for coalition building and collaboration in removing barriers that our local citizens face in addressing bad broadband service. The likelihood of legislation may be affected by a soon to be issued Attorney General's opinion on the scope of this law. *Lobbyist: Geoff Wilson*

**Taxation: Sales and Use Taxes**

As with elections, the last two sessions have seen a lot of activity in this area. Last session, the General Assembly requested CML to conduct a major project: development of a package of standardized definitions for use by home rule locally collecting municipalities. The project also includes the daunting assignment of developing a single, unified source of tax guidance as to what these definitions mean. In a TABOR environment, when changing one's tax definitions could mean constantly having to return to voters for modifications, tax guidance has become very important, with sometimes substantial financial implications. Nonetheless, tax legislation can pop up from the most unexpected quarters, and that may well happen in 2015. Should such legislation suggest further tax simplification projects, we will doubtless urge legislators that our plate is awfully full on this front, and will be until well into 2016, in all likelihood. *Lobbyist: Geoff Wilson*

**Transportation: Railroad hazardous materials shipments**

The subcommittee on rail hazardous materials shipments met with Office of Emergency Management Director Dave Hard to look at administrative actions that could improve the sharing of hazardous materials shipment safety. Director Hard said two pieces of

information are currently required by federal rules. The first is notification to the state of large shipments of Bakken crude oil. There have been no shipments of Bakken crude in Colorado and therefore no notifications. The second is the requirement that railroads provide a commodity flow study. This is a listing of the types of hazardous materials being shipped along rail lines and these reports are available to local emergency management officials. He said his office shares incident information quickly and coordinates delivering resources to help first responders cope with the incident. The suggestion was made that a forum be held to bring together state, local and railroad hazardous materials incident responders to share what resources they have and the positioning of those resources throughout the state. A subcommittee report and discussion will be delivered at the Policy Committee meeting. *Lobbyist: Mark Radtke*

#### **Urban Renewal: County compromise**

We met recently with Colorado Counties Inc. (CCI) representatives to discuss the CML bill and asked for their support. Steve Smithers, Chair of the CML Special Committee on Urban Renewal, Loveland City Manager Bill Cahill, and executive board member Arvada Mayor Marc Williams represented CML. The CML bill proposal incorporates the two elements of HB 14-1375 the Governor indicated he would sign into law. We explained that issues relating to the third element of 1375 - a one-sized-fits-all TIF formula - need to be worked out locally. There is no formula that works across the board. Unfortunately CCI indicated they are likely to oppose the CML measure. We shared this outline of what the bill accomplishes:

- Gives counties the authority to appoint a voting member of an urban renewal authority board.
- In urban renewal authorities that span more than one county the appointment would be made by the county with the most population within the authority boundaries. That county could by its own choice defer to the county with the second most population.
- The county appointee may not be an elected official.
- The county appointee must reside within the urban renewal authority municipality.
- Making an appointment is at the option of the county.
- Addition of a county appointee applies to both appointed urban renewal authority boards and city councils sitting as an urban renewal authority board.
- Insures that tax increment dollars will be disbursed to the appropriate taxing entities if financial obligations are satisfied prior to the 25 year TIF period.

The counties rejection of this compromise solution brings out in the open that this is all about money and the counties desire to gain veto power over projects or require an automatic TIF share back. *Lobbyist: Mark Radtke*

**Water & Wastewater: Colorado Water Plan**

The draft of the Colorado Water Plan was delivered to Gov. John Hickenlooper by the Colorado Water Conservation Board prior to December 10, as required by the governor's executive order creating the plan. CML Policy Committee members that attended the CML Conference this year may remember hearing from CWCB Director James Eklund about the progress of the plan at that point and why the state was moving forward with it. From the report: "A gap is quickly emerging between our shrinking water supply and the demands of population growth. Colorado's Water Plan is the map that will guide decisions and actions in the face of future water needs and demands." Of course, the plan has no legal force of law, but the document itself does appear to have momentum and CML and members municipalities must be involved in the discussion to guarantee we don't get left behind by the discussion.

Significant linkages between land use and water continue to be made, and there is been an increase in legislation and potential legislation not seen since the years following the significant drought in the early 2000's. It is an issue that is not likely to subside and will likely need to be an area of intentional focus by CML and CML members. This includes the intense focus by many on municipal water conservation – whether mandated or otherwise – as one of the chief means of achieving the water gap identified in the Colorado Water Plan. Water conservation and land use are inextricably tied and have historically been where lawmakers have sought to influence change.

The Draft Colorado Water Plan is available at <http://bit.ly/1CbXMTG>, and staff suggests members pay particular attention to Chapter 6. Attached to the email that accompanied this packet is a memorandum prepared by Colorado Legislative Council outlining the history of conservation legislation, much of which has land use implications. Staff has no recommendations at this time but encourages members to present viewpoints on the issues from your respective municipalities. *Lobbyist: Kevin Bommer*