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**From:** CML Statehouse Report <cml@cml.org>  
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### Legislative session begins; *Statehouse Report* goes digital

By the CML advocacy team: Kevin Bommer, Mark Radtke, Meghan Storrie, and Geoff Wilson

Welcome to the first all-digital edition of CML's *Statehouse Report*. In recognition of the way in which information travels and the speed at which people want to receive it, CML will now publish the Statehouse Report digitally and distribute it to our subscribing members and friends by email. Publications will also be archived in the [Advocacy section of the CML website](#), where other helpful information is also available.

The Second Regular Session of the 68th General Assembly convened on Jan. 11, 2012. Almost 300 bills and resolutions have already been introduced, and CML is tracking nearly half of them.

Gov. John Hickenlooper gave his State of the State Address on Jan. 12, focusing mostly on economic development and job growth in his speech. Senate President Brandon Shaffer and Speaker of the House Frank McNulty also talked about their priorities for continuing to lift Colorado out of the bad economy of the past few years. A split House and Senate, combined with the pressure of an election year, will mean that compromises will require significant effort on behalf of legislators.

CML is the source for the latest information on the efforts to represent the collective interests of municipalities. This year, the emailed CML Statehouse Report will also be available on the [CML website](#), along with complete lists of bills that CML is following (and the staff member assigned to it), position papers on bills, a "box score" of support and oppose bills, and contact information for legislators.

### Building codes: Colorado Timber Act

HB 12-1004 requires local governments to adopt a building code provision to allow lodgepole pine and Engelmann spruce lumber for building framing purposes. Representatives from the Montrose Sawmill are arguing that the majority of beetle kill lumber harvested is not sold in Colorado due to restrictive local building codes. CML has yet to find an example of a local government that does not allow lodgepole pine and Englemann spruce as framing material. As long as the timber meets federal grading standards as dictated by the American Softwood Lumber Standard and the West Coast Lumber Inspection Bureau, it is accepted by municipal building officials.

Bill: HB 12-1004, Requiring local building codes to allow the use of certain lumber as framing material  
Sponsors: Rep. Laura Bradford, R-Collbran; Sen. Steve King, R-Grand Junction  
Status: H. Economic & Business Development  
Position: No position  
Lobbyist: [Meghan Storrie](#)

### **Building codes: Prohibition on sprinkler requirements**

SB 12-81 prohibits a county or municipality from requiring sprinklers to be installed in single-family dwellings. If adopted, this legislation would obstruct a local regulatory authority's ability to determine the level of fire protection in their community. Several communities throughout Colorado have already adopted local laws that require fire sprinklers in certain houses/townhouses. Their current fire safety methods are based on that protection. This bill challenges a municipality's ability to continue their current fire protection strategies as adopted. Staff will ask the CML Executive Board to oppose this legislation along with the Fire Marshal's Association of Colorado. Several other organizations are likely to join the opposition.

Bill: SB 12-81, Prohibition on local governments from requiring sprinklers in single family homes  
Sponsors: Sen. Kevin Grantham, R-Canon City  
Status: S. Local Government  
Position: Oppose (pending CML Executive Board action)  
Lobbyist: [Meghan Storrie](#)

### **Finance: Investment of municipal funds**

Current statutes limit the types of investment instruments municipalities and other local governments may utilize. Among other elements, the statute requires the highest rating for federal agency bonds (e.g. Fannie Mae, Freddie Mac) to be eligible for purchase with municipal funds. The recent rating downgrade by one of the bond rating agencies has blocked purchases of these federal instruments for cities and towns that do not have a charter provision allowing council action to set investment parameters. HB 12-1005 amends the statute create a slightly lower ratings threshold that will again allow investment in these federal agency instruments.

Bill: HB 12-1005, Legal investments for public funds  
Sponsors: Rep. Pabon, D-Denver; Sen. Harvey, R-Highlands Ranch  
Status: H. Finance  
Position: Support  
Lobbyist: [Mark Radtke](#)

### **Labor: Peace Officers Bill of Rights**

This year's version of the Peace Officer's Bill of Rights does not include specific language preempting home rule charters, requiring mandatory dues check-off, or requiring third-party binding arbitration. However, HB 12-1062 retains other sections mandating disciplinary due process proceedings notwithstanding any other state or local laws, and purports to preempt municipal and county authority over local personnel procedures. As with previous versions of this bill, CML's core objection is that local personnel matters should be addressed by local governments and not dictated by the state. Doing so is contradictory to the state constitution, as it pertains to home rule cities, and is an inappropriate intrusion by the state into the matters of all local governments.

Bill: HB 12-1062, Peace Officers Bill of Rights  
Sponsor: Rep. Matt Barker, R-Colorado Springs  
Status: H. Local Government  
Position: Oppose  
Lobbyist: [Kevin Bommer](#)

### **Labor: Prevailing wage for public works projects**

This bill would require federal Davis-Bacon wages for any public works project in the state that are funded in whole or in part by the state. Many local governments in Colorado that receive grant or loan funding through the state would also be covered by the bill. Impacted communities would often be rural and economically disadvantaged local governments that count on state grant and low-interest loan assistance and are already dealing with

tremendous economic problems and crippling project costs. As part of CML's Policy Statement, the League opposes expansion of Davis-Bacon and unfunded state and federal mandates that impose financial burdens on municipalities and their citizens.

Bill: HB 12-1082, Prevailing wage  
Sponsor: Rep. John Soper, D-Thornton  
Status: H. Local Government  
Position: Oppose  
Lobbyist: [Kevin Bommer](#)

### **Municipal courts: POST certification for municipal prosecutors**

Many of the functions performed by city attorneys strongly resemble those performed by district attorneys in Colorado, who currently are granted peace officer status under Colorado law. This status is appropriate for municipal prosecutors as it will allow them to be more effective and efficient by providing them better access to certain evidence and records. In addition, it will afford them the same protections that other public employees who engage in prosecution receive. The City of Montrose has worked with the Peace Officers Standards and Training (POST) Board on legislation that would confer peace officer status to municipal prosecutors under certain circumstances. That legislation was introduced on Jan. 11.

Bill: HB 12-1026, Peace officer status for certain municipal attorneys  
Sponsors: Rep. Don Corum R- Montrose; Sen. Ellen Roberts R- Durango  
Status: H. Judiciary  
Position: Support  
Lobbyist: [Meghan Storrie](#)

### **Oil & gas: Preemption of local authority**

This past week saw the introduction of the first of at least two bills aimed at radically limiting or completely extinguishing local government authority over one class of industrial land use: oil and gas operations. SB 12-088, which is sponsored by Douglas County Sen. Ted Harvey, R- Highlands Ranch, declares oil and gas regulation a matter of statewide concern and expressly preempts all local regulation of "oil and gas operations." Colorado statutes give the latter term an exceedingly broad scope, so too would be the preemptive scope of this bill should it be enacted. The bill reverses longstanding Colorado law recognizing a local role in dealing with the land use impacts of this industry. CML will oppose this unfortunate legislation.

Still to come, we are told, is a preemption bill sponsored by House Speaker Frank McNulty, R-Highlands Ranch, which will also preempt some or all of municipal and county authority. We have not seen a copy of this bill yet.

Legislators are responding to complaints from industry and the director of the state Oil & Gas Conservation Commission about consideration, and enactment in a few cases, of local moratoria on drilling. These moratoria have been adopted while a local government updates its regulations or responds to citizen alarm and requests for more information about hydraulic fracturing or "fracking." Those who have always sought preemption of our authority have opportunistically seized upon the latest controversy to once again push this agenda.

Despite the complaints from some in the industry, we are unaware of any actual adoption of any major new oil and gas regulations in any of our member municipalities - anywhere in Colorado - over the past year. Instead, we hear a lot about what somebody proposed somewhere, or what somebody is talking about somewhere else. If your municipality has adopted anything lately, please let us know so we can answer these concerns with specificity.

We expect an active election year session on this issue.

Bill: SB 12-088, Extinguish all local authority over oil and gas operations  
Sponsor: Sen. Ted Harvey, R-Highlands Ranch  
Status: S. Local Government  
Position: Oppose  
Lobbyist: [Geoff Wilson](#)

### **Pension: Local government option for PERA swap**

While only some of CML's members are affiliated with PERA for employee retirement benefits, the League has been actively involved with those members as legislative issues arise, similar to the manner in which the League has been involved in FPPA pension issues over the years. Over the past two years, the State of Colorado has required state employees to contribute an additional 2.5 percent to their retirement while the state reduced its contribution by 2.5 percent. CML incorrectly reported in the December Statehouse Report that this so-called "PERA swap" was not opposed by PERA. PERA did, in fact, oppose last year's bill, but the bill passed with little or no opposition from legislators. This bill simply allows members of the Local Government Division of PERA to exercise the same option that the state gave itself over the past two years.

Bill: SB 12-016, Local government option for PERA swap  
Sponsor: Sen. Kent Lambert, R-Colorado Springs  
Status: S. State, Veterans & Military Affairs  
Position: Support  
Lobbyist: [Kevin Bommer](#)

### **Severance tax: Cap on severance tax distribution**

SB 12-063 would cap the traditional distribution of state and local severance tax at \$50 million each. Above that amount, committees of the legislature would determine who could receive grants and would allow "rural higher education" institutions to be eligible. Higher severance tax revenues reflect greater impacts. Diluting the local government distribution will mean that impact-related issues may not be addressed, and critical water storage and infrastructure projects may not move forward because of the impact on the Colorado Water Conservation Board's loan capacity. Future revenues are projected to be significantly higher than \$100 million.

Bill: SB 12-063, Cap on severance tax distributions  
Sponsor: Sen. Greg Brophy, R-Wray  
Status: S. Finance  
Position: Oppose  
Lobbyist: [Kevin Bommer](#)

### **Taxes: Business personal property tax reduction**

There are two elements to SB 12-052: the first part increases the exemption of property subject to business personal property tax (BPPT) from the current \$7,000 to \$14,000 of property value, while the second part caps business personal property assessments at current levels, with an inflation factor, for state assessed utilities and businesses for the next ten years. Large, multi-county operations such as oil and gas, utilities and railroads are assessed BPPT by formula by the state property tax administrator. Revenue losses are currently being calculated. CML's board will be asked by staff to oppose this bill.

Bill: SB 12-052, Local and statewide BPPT exemption  
Sponsors: Sen. Mark Scheffel, R-Parker; Rep. Kevin Priola, R-Henderson  
Status: S. Finance  
Position: Oppose (pending CML Executive board action)  
Lobbyist: [Mark Radtke](#)

### **Taxes: Business personal property tax suspension**

HB 12-1029 exempts any business personal property purchased in the year 2013 from a business personal property tax (BPPT) levy for as long as it is used by the original purchaser. The bill would allow the exemption for both locally and state assessed BPPT. Revenue losses to local governments have not yet been determined. The municipal impact varies widely, depending in large part on the number and size of industrial operations that are hosted by a city or town. CML's board will be asked by staff to oppose this bill.

Bill: HB 12-1029, Business personal property tax exemption  
Sponsors: Rep. Chris Holbert R-Parker; Sen. Mark Scheffel, R-Parker  
Status: H. Finance  
Position: Oppose (pending CML Executive Board action)  
Lobbyist: [Mark Radtke](#)

## **Transportation: ATVs on streets**

Passage of HB 12-1066 would require municipalities with fewer than 5,000 residents to pass an ordinance if they desired to prohibit off-highway vehicles (OHVs, or all-terrain vehicles) from travel on municipal streets (opt-out). Cities with more than 5,000 residents would be required to pass an ordinance if they desired to permit the use of OHVs on city streets (opt-in). A state administered registration and plating system for OHVs would qualify the machines for use on roadways. The 195 Colorado cities and towns with fewer than 5,000 residents would be faced with the expense of an ordinance, signage, and law enforcement issues. All cities and towns currently have the authority to allow OHVs on their streets by ordinance.

Bill: HB 12-1066, Power sports vehicles  
Sponsor: Rep. Kevin Priola, R-Henderson  
Status: H. Transportation  
Position: Oppose  
Lobbyist: [Mark Radtke](#)

## **Transportation: Low-speed electric vehicles**

Under current law, low speed electric vehicles, better known as neighborhood electric vehicles (NEVs), are allowed to travel on municipal streets and state highways within municipalities in speed zones up to 35 miles per hour. NEVs can attain a maximum speed of 25 miles per hour. The bill would allow NEVs on streets with speed limits of 40 miles per hour. The change is sought to address short segments of 40 mph roads linking 35 mph zones where NEVs can travel.

Bill: SB-013, Low-speed electric vehicles  
Sponsors: Sen. Gail Schwartz, D-Snowmass Village; Rep. Roger Wilson, D-Glenwood Springs  
Status: S. Transportation (Jan. 31)  
Position: Staff discretion to support  
Lobbyist: [Mark Radtke](#)

## **Transportation: Photo radar/red light camera ban**

Local governments and state law enforcement would no longer be able to use automated vehicle identification systems as a law enforcement tool under SB 12-050. Red light camera and photo speed radar would be prohibited. Automatic camera use would be allowed to identify vehicles on toll lanes for billing purposes. Nine municipalities use one or both of these law enforcement tools to encourage compliance with traffic laws. The use of this law enforcement tool is currently being addressed where it should be by the elected officials of each municipality. CML's board will be asked by staff to oppose this bill.

Bill: SB 12-050, Eliminate photo radar and red light camera  
Sponsors: Sen. Scott Renfro, R-Greeley; Rep. Randy Baumgardner, R-Hot Sulphur Springs  
Status: S. Transportation  
Position: Oppose (pending CML Executive Board action)  
Lobbyist: [Mark Radtke](#)

## **Water/wastewater: Authorize the use of graywater**

A potential water conservation strategy for the future is the use of captured graywater within homes and potentially even businesses. Sophisticated in-home units can capture water from sinks, showers, and other related sources that would not contain human waste and then convert that water (graywater) for use in toilets and outdoor irrigation. This bill would allow that use, subject to local government approval. However, others are concerned about questions of water rights and not allowing that used water to return to the stream.

Bill: HB 12-1003, Authorize the use of graywater  
Sponsors: Rep. Randy Fischer, D-Fort Collins; Sen. Jeanne Nicholson, D-Black Hawk  
Status: H. State, Veterans & Military Affairs  
Position: No position

Lobbyist: [Kevin Bommer](#)

## Water/wastewater: Exempt drinking water from certificates of designation

This limited legislation preserves current practice as it relates to the impoundments of solid waste from drinking water treatment facilities. Under decisions meant to deal with solid waste in landfills and other situations, local governments would have had to issue certificates of designation to their own drinking water utilities, which would be both costly and unnecessary. The proposed legislation, HB 12-1078, provides the limited relief requested by drinking water utilities, preserves control for local governments through existing administrative mechanisms, and maintains the statutory framework needed by the Solid Waste Program at CDPHE to implement the proposed regulations.

Bill: HB 12-1078, Authorize the use of graywater

Sponsors: Rep. Ed Vigil, D-Fort Garland; Sen. Gail Schwartz, D-Snowmass Village

Status: H. 2nd Reading

Position: Support

Lobbyist: [Kevin Bommer](#)

### Colorado Municipal League

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