



Congress sends Infrastructure Investment and Jobs Act to the president



By Kevin Bommer, CML executive director

In early August, the Senate passed the Infrastructure Investment and Jobs Act (IIJA) with support from both sides of the aisle. Upon passage, the bill, which includes \$550 billion in infrastructure investment, became entangled in the debate about whether it should be coupled with the more expansive Build Back Better (budget reconciliation) legislation promoted by President Biden along with House and Senate progressives.

Following intense negotiations with moderate House and Senate Democrats, the logjam was broken and IIJA was passed along with a procedural vote that will allow Build Back Better to come up at a later date. While there is no guarantee of an outcome with the reconciliation bill, IIJA will be signed into law.

With the assistance of the National League of Cities, CML will provide information in the weeks ahead on how Colorado municipalities will be able to seek infrastructure funding from IIJA and how the funds may be used for investments in our nation's transportation, water, and broadband infrastructure among others. Key funding areas include the following:

Transportation

Municipalities of all sizes will have an opportunity to seek competitive funding from U.S. Department of Transportation

(USDOT) programs supporting all forms of transportation, especially from new funding in the Surface Transportation Block Grant program, ensuring communities of different sizes can more clearly see how states will spend to support them. In addition, there will be numerous new financing opportunities for several types of transportation infrastructure investments and improvements.

Water and climate

IIJA includes the Senate-passed Drinking Water and Wastewater Infrastructure Act, which authorizes several programs and grant opportunities for water and wastewater; it does not provide funding for these grants. However, IIJA makes a significant investment in the Clean Water and Drinking Water State Revolving Funds (SRFs) over five years (49% as principal forgiveness/grants, 51% as loans). There is additional funding for lead pipe replacement, as well as for emerging contaminants and PFAS.

Climate and resilience

IIJA also includes numerous provisions for energy efficiency, electric grid resilience, pre-disaster mitigation, drought and Western water resilience, and flood and wildfire mitigation. The transportation sections also provide funding towards electric vehicles and charging infrastructure, as well as a formula and competitive

grant program to help states improve the resiliency of transportation infrastructure.

Sustainability

IIJA will emphasize cleanup and reuse of contaminated areas with investments in the U.S. Environmental Protection Agency Brownfields programs and Superfund site remediation. The bill also provides funding to support municipal recycling programs.

Broadband and cybersecurity

Efforts to continue to work toward greater broadband deployment and access in areas that lack adequate service were answered in IIJA with a significant investment in programs for broadband infrastructure buildout, affordability, and digital equity. The bill also includes historic investments in local cybersecurity through a new state and local government cybersecurity fund.

Private activity bonds

Finally, IIJA contains two new uses for private activity bonds and expansion of another. This first new use will allow local governments to issue tax-exempt bonds to finance rural broadband projects. The second new use will help reduce the cost of commercializing the purchase and installation of carbon capture, utilization, and storage equipment, as well as direct air capture (DAC) projects using private activity bonds. Finally, the IIJA increases the current cap of tax-exempt highway or surface freight transfer facility bonds from \$15 billion to \$30 billion. Municipalities will now be able to engage in public-private partnerships (P3s) and expand the volume of financing to supplement future financing needs.

There are significant additional details that will be provided in the weeks ahead from both CML and our various partners in the Colorado state government. Please stay tuned. For questions, please contact Kevin Bommer at kbommer@cml.org.



CML's Election Webinar series is back!

We're excited to provide clerks with essential information concerning elections throughout the next few months. CML will host Karen Goldman, MMC, on a series of webinars focused on essential election practices. Goldman has provided training for municipal clerks in the elections arena during her almost 20 years as a municipal clerk in Colorado and currently runs the League Municipal Clerk Advisor Program. You can register for the next webinar here: bit.ly/3nto9RL.

Colorado state agencies release study on the Colorado Clean Truck Strategy

The Colorado Energy Office (CEO), the Colorado Department of Transportation (CDOT), and the Colorado Department of Public Health & Environment, Air Pollution Control Division (APCD) recently released the Colorado Medium- and Heavy-Duty Vehicle Study (bit.ly/3DboWff), a study on strategies to encourage cleaner trucks in Colorado. The study looks at the existing medium and heavy-duty vehicles in the state as well as opportunities and challenges associated with a transition to zero-emission vehicles (ZEV) that could reduce negative climate impacts and improve air quality. The study and upcoming public input opportunities will inform the development of a Colorado Clean Truck Strategy. Some of the study's findings include:

- Zero emission trucks and buses are expected to reduce greenhouse gas emissions and air pollution, helping slow climate change and protect people's health, especially as Colorado continues to transition to cleaner sources of electricity.
- While they cost more to purchase up front, ZEVs are expected to save vehicle owners money over time due to lower fuel and maintenance costs.
- The number of zero emission trucks and buses available is expected to grow considerably in the coming years as truck manufacturers introduce new models,

costs continue to decline, and state agencies invest in incentives and charging infrastructure.

- State government, local government, utility fleets, and other public fleets could lead the transition to clean trucks and buses, as they own some of the biggest fleets in Colorado.
- Grants will be available for charging infrastructure, vehicle purchase incentives, workforce development strategies, and technical assistance.
- Some vehicles are more ready to go electric than others, particularly transit buses, school buses, and medium-duty vehicles used for regional hauling and delivery. Long haul tractor trailers are likely to be more challenging and will need more support to transition.

The Colorado Department of Transportation, Colorado Department of Public Health & Environment, and the Colorado Energy Office are hosting joint online public meeting on Nov. 20, to share the results of the study and discuss Colorado's Clean Truck Strategy.

To sign up for the public meetings, download the Medium/Heavy Duty Vehicle Study, and to find other key information about the development of the Colorado Clean Truck Strategy, visit bit.ly/3on1PL6.

WaterNow Alliance Regional Project Accelerator applications open

WaterNow Alliance's Project Accelerator offers municipalities, water agencies, and other organizations the opportunity to jumpstart sustainable water projects by providing free tailored support for programs from a broad network of water sector experts in program development and financing. Selected projects will receive up to 250 hours of assistance over an approximately 6-month period (valued at \$25,000). Assistance may include policy guidance, research and analysis, program design, training, and education.

Previous projects included:

- Evans: Creating a water efficient fixture direct installation program for income-eligible residents

- Golden: Implementing a graywater ordinance and demonstration projects
- Summit County & High Country Conservation Center: Developing a regional outdoor efficiency program
- Greeley: Enhancing water efficiency portfolio through performance analysis
- Severance: Incorporating water efficiency into the comprehensive plan
- Centennial: Incorporating sustainable water practices into Centennial's municipal code
- Thornton: Incentivizing water efficient home construction

The deadline to apply is **Dec. 13**. For more information and to apply, visit WaterNow's website at bit.ly/3c4ORtp.



COLORADO MUNICIPAL LEAGUE **NEWSLETTER**

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Fall municipal election results

Voters in 88 cities and towns across Colorado considered local questions and candidates as part of the Nov. 2 coordinated election. 56 municipalities held their regularly-scheduled candidate elections, while the remainder held special elections on initiated and referred ballot questions. Over 125 municipal ballot questions were considered across the state. The following results are unofficial and subject to change.

Housing

Several municipalities had housing-related questions on the ballot.

The following questions passed:

- Avon – excise tax on the leasing of short-term rental units to fund community housing
- Basalt – \$18 million in debt authority to fund affordable housing, infrastructure improvements, and green projects, to be paid for with the extension of previously approved property taxes
- Lafayette – sales tax to be used for mental health and human services, which may include rent assistance, as well as assistance with food, utilities, childcare and medical care, mental health care and resources, and support for victims of domestic violence
- Leadville – accommodations tax on the leasing of short-term rental units and short-term commercial public accommodations for the purpose of funding affordable and community housing programs
- Ouray – excise tax on the leasing of short-term rentals to fund housing programs, as well as to fund debt for the water and wastewater treatment plants
- Vail – sales tax to fund housing initiatives, developments, and programs

In Crested Butte, voters approved \$8.985 million in debt authority, to be paid for with an increase of the excise tax on vacation rentals. They rejected a separate question for \$24 million in debt authority, which would have been paid for with two taxes, which will also not go into effect: a sales and use tax and a Community Housing tax on undeveloped residential land and on residential units that are not a primary residence and are not being rented for residential purposes for at least six consecutive months per year.

Telluride had three housing-related questions on the ballot:

- Two passed: a lodging tax to manage the effects of tourism on the community, including the acquisition of property for and construction of affordable or employee housing, as well as transportation improvements and wastewater treatment facility improvements; and an

increase to the business license fees for short-term rental units and the imposition of a cap on the number of licenses to the number that have been issued as of Nov. 2, 2021.

- The initiative to cap the number of short-term rental business licenses available for non-primary residences to 400 failed.

Boulder voters rejected an initiative to increase the number of people allowed to reside in housing units.

Denver voters rejected a referendum on an ordinance concerning the number of unrelated adults who can live in a household, which would have overturned an increase in permitted housing residency by unrelated adults should it have passed. The ordinance, which will now stand, also concerned residential care facilities and community corrections facilities.

Tax and bond issues

Sales tax questions passed in:

- Lafayette – for public safety services
- Las Animas – for recreational improvements
- Littleton – for capital improvement projects
- Lone Tree – for city services
- Mead – for street improvements
- Monument – for police services
- Ramah – for municipal operations

Sales tax questions failed in:

- Castle Rock – for open space and trails
- Colorado Springs – for trails, open space, and parks
- Deer Trail – for the provision of town services
- Gunnison – for streets and capital projects
- Superior – for transportation improvements
- Yuma – for general expenses

A sales tax in Idaho Springs, for water and wastewater capital improvement projects, is currently trailing by two vote.

Sales tax extensions were approved in:

- Boulder – for capital improvement projects
- Greeley – for street and pedestrian safety improvements

Denver voters rejected an initiative that would have reduced the total sales and use tax levied in Denver and required that if at any election, a tax passed that exceeded the new rate of 4.5%, the city would have had to adjust the existing tax to reduce the total rate to comply with the 4.5% cap.

In Eckley, voters approved a use tax for community infrastructure and maintenance.

Lodging taxes passed in Castle Rock, Golden, and Rico.

Black Hawk voters approved two occupational taxes: one on live stadium games, and the other

on self-service betting devices for sports event betting.

A proposed housing construction tax to fund police, fire protection, and emergency medical services in Castle Rock failed.

Several municipalities received authority to expand the use of existing taxes:

- Evans – approved the use of revenues from the sales tax on domestic food to finance the costs of a city police station
- Haxtun – approved the use of revenues from the tax dedicated to the community center for street improvements
- Walsenburg – approved the use of revenues from a street improvements tax to include other expenses related to streets and storm drainage projects
- Wellington – approved the use of revenues from a streets tax for parks, trails, and open space

Aspen voters approved the expansion of the uses allowed for the Wheeler Opera House real estate transfer tax and the removal of the current limitation on the grant of funds for the purpose of supporting cultural, visual, and performing arts. The question required, and received, approval by at least 60% of voters to pass.

Three property taxes failed:

- Glenwood Springs – for the municipal airport
- Rico – for the public works fund
- Williamsburg – for road and flood drainage improvements

Calhan voters voted to join the Pikes Peak Rural Transportation Authority and approved an associated sales and use tax increase for the authority.

Debt authority was granted in:

- Boulder – \$110 million to fund capital improvement projects, to be paid for by the separately approved extension of the Community, Culture, Resilience, and Safety sales and use tax
- Eagle – \$27 million for development projects to be undertaken by the Eagle Downtown Development Authority
- Englewood – \$70 million to finance objectives in any Englewood Downtown Development Authority plan of development
- Haxtun – \$1.5 million for street improvements
- Julesburg – \$2.5 million for a public pool, to be paid for by a sales tax increase

Debt authority was not granted in:

- Glenwood Springs – \$8 million for capital projects related to the municipal airport

Continued from page 3...Fall municipal election results

- Louisville – \$51.4 million for transportation improvements, which would have been paid for by a property tax increase

Westminster debt questions were split. Voters approved authority for \$15 million for parks and open space projects, to be paid for by the extension of an existing Parks, Open Space, and Trails sales and use tax, and denied authority for \$25 million for public safety, which would have been paid for with an increase to the Public Safety sales tax.

Denver voters passed four of five debt questions on the ballot:

- \$104 million for repairs and improvements to the Denver facilities system
- \$38.6 million for repairs and improvements to the Denver housing and sheltering system
- \$54 million for repairs and improvements to the Denver parks and recreation system
- \$63 million for repairs and improvements to the Denver transportation and mobility system

The sole debt question to fail in Denver was for \$190 million for repairs and improvements to the National Western Campus facilities system.

Property tax rate adjustments

Norwood voters granted the town authority to adjust its mill levy rate annually as needed to offset revenue reductions caused by state-imposed changes to the percentage used to determine assessed valuation of property as well as the authority to collect, retain, and spend all revenues.

Revenue retention

Williamsburg received authority to collect, retain, and spend all revenues as allowed by voter approval under the Taxpayer's Bill of Rights (TABOR).

Voters in several other municipalities also approved this authority, but for specific purposes:

- Castle Rock – for police, fire protection, emergency medical services, and roads
- Colorado Springs – to create a wildfire mitigation and prevention program
- Monument – for road construction and maintenance
- Pueblo – for road repairs and improvements

Historically, municipalities have passed a majority of the TABOR-related questions that have been asked, with a 62% approval rate for tax questions, 70% approval rate for debt questions, and 87% approval rate for revenue retention questions since voter approval was first required in 1993.

Governance

Westminster voters rejected a question

concerning the establishment of a commission to explore providing for the election of some or all council members by ward, rather than at-large.

In Monument, voters approved the formation of a home rule charter commission.

Two recalls failed in Avon.

Log Lane Village and Mt. Crested Butte voters chose not to eliminate term limits for their elected officials.

Broadband

Milliken and Windsor will become the 117th and 118th municipalities to be exempted by local voters from the statutory restriction on providing, or using municipal funding to provide, broadband or telecommunications services.

Marijuana

Marijuana businesses were on the ballot in:

- Brighton – rejected question which would have allowed both marijuana businesses and a marijuana tax
- Golden – approved retail stores and approved a marijuana tax in a separate question
- Lamar – approved medical and retail stores, cultivation, manufacturing, and testing, and approved marijuana taxes in a separate question
- Mead – rejected medical and retail businesses
- Wellington – medical and retail stores are currently passing by one vote, and a marijuana tax was approved in a separate question
- Westminster – approved marijuana businesses, but because they were contingent on the approval of a marijuana tax in a separate question which failed, neither will go into effect
- Wray – rejected question which would have allowed both manufacturing and an excise tax

Marijuana taxes passed in De Beque and Las Animas, and failed in Fort Lupton, Lakewood, and Yuma. A marijuana tax in Idaho Springs is currently ahead by two vote.

Denver voters defeated an initiative to increase the marijuana sales tax to fund pandemic research.

Publication requirements

Greenwood Village voters approved an amendment to the charter to delete the reference to a legal newspaper with regard to publication requirements and instead establish publication requirements by ordinance.

Election changes

Broomfield voters approved an amendment to their code to provide that the mayor and all councilmembers be elected using a ranked voting method.

Elizabeth voters approved moving their regular elections to November of even-numbered years, and Denver voters approved a move to April of odd-numbered years.

Charter amendments

Several charter amendments were on the ballot in home rule municipalities around the state:

- Boulder – approved three amendments: regarding council compensation, regarding meetings of council, and regarding the number of signatures required for initiative, referendum, and recall petitions
- Delta – approved an amendment regarding contracts and rejected a second amendment regarding borrowing provisions
- Denver – approved an amendment to allow the citizen oversight board to appoint the independent monitor with the consent of city council, providing the office of the monitor with independent legal counsel, and establishing the employment status of employees
- Fort Morgan – approved the removal of a requirement for council approval of certain contracts
- Greeley – rejected two amendments, one requiring outside analysis and voter approval for purchase, lease, or use of the city's water supply, and one requiring outside analysis and voter approval prior to selling or leasing excess water or infrastructure
- Lafayette – approved an amendment to shorten the residency qualification for city councilors to one year, an amendment to update archaic language, and an amendment to update the charter to use gender neutral language
- Telluride – approved non-substantive changes to the election code and meetings sections and a second question to move petition regulations to the municipal code
- Westminster – approved an amendment regarding background checks, to be in compliance with state and federal policy and a second amendment updating the election code to be in compliance with state and federal law, and rejected an amendment to update the charter to use gender neutral language

Arvada voters approved three of four charter amendments: increasing the number of days to fill a council vacancy, increasing the amount of time permitted to gather signatures on a referendum petition, and increasing the amount of time permitted to gather signatures on an initiative petition. The one amendment that failed would have removed the prohibition of an

Continued from page 4...Fall municipal election results

employee of another municipality from holding public office in Arvada.

Other issues

Other issues that were decided include:

- Aspen – approved the exchange of public property for a conservation easement
- Boulder – rejected an initiative to require an election approving the annexation agreement for land known as CU South and approved an initiative to prohibit the

sale and manufacture for sale of certain fur products

- Cherry Hills Village – approved the organization of general improvement district and the authorization of debt and levy of property tax
- Denver – approved an initiative requiring a municipal election before allowing development on land protected by a conservation easement; rejected a second initiative also concerning development on

land protected by a conservation easement that would have also redefined conservation easement; and rejected an initiative to require the city to enforce unauthorized camping and allow up to four authorized camping locations on public property

- Lyons – approved the construction of a solar generation and battery storage facility on town property
- Wiggins – rejected the sale of public property

Collective bargaining likely introduced in 2022 legislative session

By Meghan Dollar, CML legislative advocacy manager

During the 2021 legislative session, there was a proposed draft of legislation that mandated collective bargaining for all public employees as well as mandating what needs to be included in the agreements. The legislation was not introduced in 2021, but CML expects it will be introduced early in the 2022 legislative session. The League neither supports or opposes collective bargaining arrangements, but rather supports local determination of its use and scope. CML's Policy Statement is clear that, CML opposes efforts to interfere with a municipality's ability to determine the terms and conditions of municipal employment, which state-mandated collective bargaining would run counter to.

At an extremely high level, the proposed legislation in 2021:

- Created a new Article 32 in Title 29, the "Public Employee Collective Bargaining Act" to allow state and local employees of any category to form an employee organization to negotiate a collective bargaining agreement for a term of 1–5 years.

- Applied to the state, counties, cities and counties, cities, municipalities, special districts, and other subdivisions.
- Created rights of public employees including, but not limited to, the right to form an employee organization, negotiate and address grievances through their exclusive representative, engage in activities for collective bargaining and other mutual aid/protection – to the extent not prohibited by law, and communicate and distribute literature regarding employee organization issues. The proposed legislation includes numerous other rights.
- Mandated what a public employer must do as a bargaining unit is starting to form as well as the public employers' statutory duties including but not limited to negotiating in good faith, the requirements for which are very specific, and if the parties can't agree on the collective bargaining agreement, the parties must use mediation/arbitration to resolve.

It is also important to note that the draft impacts local governments that currently have locally-adopted collective bargaining agreements. If the proposed legislation were

to pass, it would purport to supplant local processes and negotiations the mandated statewide framework, as soon as existing contracts expire. Attempting to preempt local agreements, many of which were adopted by a local vote, is a significant concern for CML. The law is also silent on any limitations on public employees striking. Typically, public sector collective bargaining agreements, including those that the state applied to itself in 2020 legislation, contain an express prohibition on strikes.

As the Legislature begins, CML will follow this legislation closely and quickly take a position. Defeating this legislation will require a substantial grassroots effort from our members and educating their legislators as to why it is extremely important to allow local governments or their voters to make the determination as to whether collective bargaining works for their communities. CML will provide information and resources so our members can effectively advocate against this legislation. If you need more information, please contact Meghan Dollar at mdollar@cml.org.

CML announces scholarships for 2022 Annual Conference

Plans are underway for the Colorado Municipal League's 100th Annual Conference, being held **June 21–24, 2022** in Breckenridge.

This conference is the signature event of the year where municipal officials from around the state gather to network and exchange ideas. Year after year, attendees rave about the valuable experience and how inspired they are to get back to work to put their newfound knowledge to use.

CML is pleased to offer 10 conference scholarships to the 100th annual conference.

Scholarships are open to all member municipalities. Applicants can be a manager, clerk, mayor, councilmember, town board member, or key department head. Scholarship recipients (one application per municipality) will receive complimentary registration; lodging (arranged by CML at a contracted hotel); tickets for lunch on Wednesday and Thursday and one of the following: Elected Officials breakfast, Managers lunch, or Attorneys lunch on Friday; and a travel stipend. (*Note: Municipalities that had a scholarship awarded to someone in their*

city or town in 2021 are not eligible to receive a scholarship for 2022.) For more information and to apply, visit bit.ly/2YGO4M5.

Complete the application, include all necessary paperwork, and return to CML by **Friday, Feb. 25, 2022**. Incomplete applications will not be considered.

If you have any questions about the conference or scholarship opportunity, contact Karen Rosen at 303-831-6411 or krosen@cml.org.

CML LEGAL CORNER



Marijuana trends in the Nov. 2, 2021 election



By Megan Decker, CML law clerk

Recreational marijuana has been legal in Colorado for almost 10 years. In the most recent election, 24 out of 127 ballot questions concerned marijuana. For those who are curious, that means 19% of the questions on the ballot for municipal elections this November were about marijuana. Suffice it to say, Coloradans are interested and opinionated when it comes to marijuana.

Revenue from marijuana taxes and fees

In 2012, Colorado legalized recreational marijuana. By the end of 2013, the Department of Revenue finalized regulations for recreational marijuana and voters passed Proposition AA, which put a 25% tax on recreational marijuana sales. Colorado municipalities were authorized to opt in to recreational marijuana licensing, either with a vote of the governing body or a vote of the people. According to a Forbes Magazine article published in May of this year, in the last six years Colorado has collected over \$1.6 billion in marijuana

taxes and fee revenues – and that’s just at the state level.

Each year, Denver publishes a marijuana report. The report for 2020 states that marijuana revenue constituted about 5.5% of Denver’s general fund revenue for a total of \$70.4 million. This includes a special sales tax on retail marijuana, a standard sales tax on retail marijuana, sales tax on medical marijuana, licensing fees, and a state shareback from state marijuana taxes. In the 2020 November elections, six Colorado municipalities passed a ballot measure to increase sales taxes on recreational and medical marijuana. These municipalities estimated that this would increase revenue for their city or town by \$100,000–\$240,000 annually. It is clear that marijuana can be a significant source of income for a municipality.

Marijuana in the Nov. 2 elections

Since 2016, there have been 103 marijuana related questions on the ballot for municipal elections. The November election added 24, bringing the total to 127. Although municipalities will sometimes combine two categories or split one

category into multiple questions, marijuana ballot questions tend to fall into one of the following four categories:

- Should the municipality allow medical and retail marijuana sales?
- Should the municipality allow medical and retail marijuana cultivation and manufacture?
- Should the municipality levy a special sales tax on retail and medical marijuana?
- Should the municipality levy an excise tax on the cultivation and manufacture of medical and retail marijuana?

This year, marijuana questions took the same basic format, but two interesting trends emerged. First, since 2016, there have been 56 ballot questions regarding passing or increasing a sales or excise tax on medical and recreational marijuana. Of those questions, 82% passed. This November there were 14 sales and excise tax increase ballot questions but only 5 of them passed, which is 36%, significantly lower than past elections. Proposition 119 to increase marijuana taxes at the state level also failed. Interestingly, Westminster passed a measure which would allow marijuana businesses to operate in the city, but the measure was structured in such a way that it would only go into effect if voters also passed a second measure creating a 5% sales tax. Just last year, Lakewood voters approved a measure allowing marijuana businesses in that city; but then this year rejected a measure to tax those same businesses.

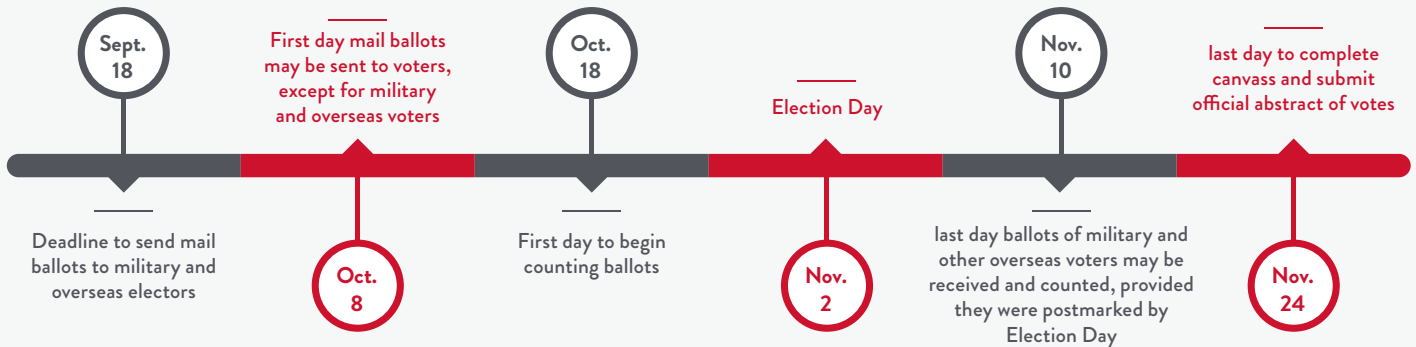
It is hard to draw any conclusions regarding these trends without significantly more research. However, it will be interesting to watch the spring 2022 election to see if these trends continue or if the November 2021 election was just an outlier.

This column is not intended and should not be taken as legal advice. Municipal officials are always encouraged to consult with their own attorney

Research Corner: 2021 coordinated election

With three statewide questions on the ballot, all 64 counties held elections on Nov. 2, 2021. Colorado Secretary of State Jena Griswold released daily updates of the number of ballots returned to county clerks for the 2021 coordinated election. The most recent update was released with information as of 11:30 pm on Nov. 3, 2021.

ELECTION 2021 TIMELINE



IN 2021



88 municipalities held elections



56 regular elections



4 canceled regular elections



32 special elections



254 mayor and city or town council seats up for election



127 municipal questions on the ballot

SINCE 1993



62% of municipal tax questions have passed



70% of municipal debt questions have passed



87% of municipal revenue retention questions have passed

STATEWIDE

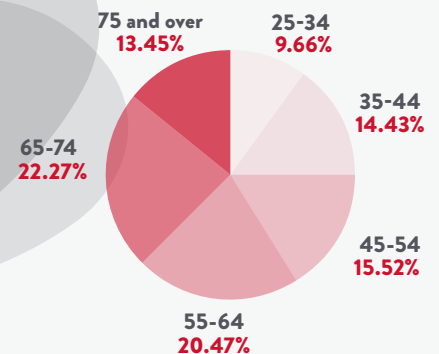
1,565,994 total ballots returned

40% of active registered voters

1,546,344 mail ballots returned

19,650 in person ballots returned

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Featured in this issue:

- Congress sends Infrastructure Investment and Jobs Act to the president
- Colorado state agencies release study on the Colorado Clean Truck Strategy
- Fall municipal election results
- Collective Bargaining likely introduced in 2022 Legislative Session
- Legal corner: Marijuana trends in the Nov. 2, 2021 election
- Research corner: 2021 coordinated election

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