



CML PHOTO BY RACHEL WOOLWORTH

Sen. Michael Bennet, center, poses for a photo with members of the CML Executive Board on Jan. 26 in Denver.

Sen. Bennet discusses immigration, housing with CML Executive Board

By Rachel Woolworth, CML municipal research analyst

Sen. Michael Bennet visited Colorado Municipal League on Jan. 26 to speak to the League's executive board and staff about federal legislation, municipal issues, and the political climate in Washington, D.C.

Bennet opened his visit by highlighting recent federal legislation's multi-billion-dollar investment in broadband, roads, and clean energy across Colorado.

The senator expressed concern over federal immigration policy amid the arrival of tens of thousands of Venezuelan immigrants to Colorado through-

out the last year. Bennet is working on federal immigration policy and noted that work permits for immigrants will be an important part of any immigration reform.

"We have to remember what an asset immigrants are to this country," Bennet said. "This country is still a country people want to live in."

Bennet acknowledged affordable housing challenges in cities and towns across Colorado and suggested that building new housing stock, including higher density housing and manufac-

tured homes, will be an important part of the solution.

"In every single town and county I visit in this state, I hear about the same two things — mental health and housing. They are not unrelated."

The senator also discussed the war in Ukraine, Western water issues, electric vehicles, and his hope for bipartisan tax reform in Washington.

"My job and my staff's jobs are to be your servants," Bennet said. "It is hard to imagine more at stake than what this country has at stake right now."

EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO



COLORADO MUNICIPAL LEAGUE **NEWSLETTER**

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Colorado senators provide guidance for CDS requests

By Kevin Bommer, CML executive director

U.S. Senators Michael Bennet and John Hickenlooper are jointly updating the process for Fiscal Year 2025 (FY25) Congressionally Directed Spending (CDS) appropriations requests from municipalities.

The new process includes the opportunity to fill out an optional interest form before the official form is released. This is a joint form used by both senators' offices, but each senator will review project requests and submit to the Senate Appropriations Committee individually.

Though the interest form is not required and does not serve as an official request submission, municipalities are strongly encouraged to fill out the form. The interest form will allow staff to review projects, provide relevant feedback, and further engage with requests prior to the official request period later in the year. Upon completion of the interest form and final FY25 guidance, municipalities will receive the official request form directly from the senators' offices.

Please review both the FAQ, <http://tinyurl.com/2s439sz3>, and the interest form, <http://tinyurl.com/mzjmcuct>. You can also find all the information on Sen. Hickenlooper's website, <http://tinyurl.com/4xavekz5>. Members with questions or in need of assistance can email directedspending@bennet.senate.gov or [cgs@hickenlooper.senate.gov](mailto:cds@hickenlooper.senate.gov).

CML UPDATE

ROBIN ESKILDSON

CML welcomes the newest member of our team. Robin Eskildson is CML's receptionist. She has extensive experience in state and local government, having worked as an administrative professional in the Governor's Office of Information Technology, Colorado Department of Revenue, Colorado Office of Economic Security, Denver Housing Authority, Denver Chamber of Commerce, and in the Civil Rights Division of the Colorado Department of Regulatory Agencies. She also has worked for the National Conference of State Legislatures and Regis University. Welcome to CML, Robin!



CML EVENTS

LEGISLATIVE WORKSHOP

This annual day-long workshop is your opportunity to discuss the key municipal issues before the General Assembly, CML's legislative program, and what you can do to influence the legislative process. CML's 2024 Legislative Workshop will be held Feb. 15 at History Colorado in Denver. Register online at <http://tinyurl.com/4dmnsfxj>.

CML ANNUAL CONFERENCE

Registration will open soon for the CML 2024 Annual Conference, which will be held in Loveland, Colorado, June 18-21. CML's signature conference draws more than 1,200 leaders throughout the state to network and learn about crucial issues that effect Colorado municipalities. More information on the conference is available online, <https://www.cml.org/conference>.



PHOTO COURTESY OF THE CITY OF GRAND JUNCTION

The City of Grand Junction hosts a Café con Pan event at La Michoacana ice cream shop.

Don't just push the easy button

Strategies for navigating language accessibility

By The City of Grand Junction

One focus of municipal communications departments is to ensure everyone has access to government services. Staff can't simply add a Google Translate button to a municipal website or create a flyer in Spanish and check the box that language disparity has been addressed.

Knowing the demographics of a municipality is the first step in creating inclusion for non-English speaking community members. After gaining an understanding of the languages spoken locally, it is critical to find out how non-English speaking individuals hope to receive information. Municipalities can provide a wide variety of translated materials, but without effective distribution channels, their efforts will be a waste of time and resources.

Do we really know whether our Spanish-speaking community members use Facebook, Reddit, or Instagram? Are they going to the city website to apply for a business license or sign their child up for soccer or summer camp? What strategies are being employed to connect with and engage this segment of the community? Are there cultural as well as language barriers? At the City of Grand Junction, a wide variety of tactics are being employed to reach the entire community while creating a more inclusive culture of engagement in municipal government.

This past year, our community engagement coordinator developed a language access plan that was posted to the city website. The employee also created a brochure detailing language accessibility plans that was shared at local

meetings and special events including the César Chávez Festival, the Western Colorado Latino Chamber, and the Spanish Advisory Committee.

Municipal dollars were dedicated to acquiring iPads to access live, on-demand remote video interpretation services. As these iPads were deployed, the engagement coordinator provided citywide training to staff on how to use the service. The interpretation service also works on city-issued iPhones, allowing police officers and fire personnel who interact with our community members daily to utilize the service.

This year's Café con Pan events, or Coffee with Bread, hosted by the city manager with staff support provided by the bilingual engagement coordinator, included

language interpretation. One of the most successful events of this series was held at La Michoacana, a popular ice cream shop, and drew more than 300 people for free paletas, conversation, and information about city programs and services.

Other successful initiatives overseen by the engagement coordinator include: the creation of a process for staff to request consistent and accurate document translation, information, and way-finding signage in Spanish throughout the city, the use of interpretation technology for public meetings, the creation of a pool of local interpreters, and the convening of focus groups to learn where our Spanish-speaking community members go for information and how we can best help them access services.

As we expand our knowledge and understanding of how to meet the unique needs of all members of the Grand Junction community, we can more effectively cultivate a community that is welcoming, engaging, and inclusive.



PHOTO COURTESY OF THE CITY OF GRAND JUNCTION

Attendees take part in a Grand Junction Café con Pan event.

Financial and technical assistance available to support local solar strategies

Installed solar capacity in Colorado is expected to double in the next five years, and federal incentives will accelerate this trend. This means local governments can expect to see an increasing number of proposed solar projects of all kinds.

SolSmart, a national program funded by the U.S. Department of Energy, offers Colorado local governments free technical assistance to implement solar best practices. Participating governments can earn recognition for implementing policies that create opportunities for residents to install solar and contribute to local clean energy generation and economic development. Since 2016, 33 Colorado communities have earned SolSmart designations.

To further help local governments manage these growing needs, the Colorado Energy Office will announce a new grant program this spring to support the adoption of instant permitting for rooftop solar systems. More information is available at <http://tinyurl.com/96aae88y>. SolSmart can help ensure your policies and procedures

on solar are effective and up-to-date. Join one of SolSmart's two upcoming webinars to learn more:

Introduction to SolSmart: Learn about solar best practices and the free technical assistance available through the SolSmart Program. This webinar is offered Feb. 21, <http://tinyurl.com/49cuj7ds>, and March 20, <http://tinyurl.com/4d37kd9e>.

SolSmart Tune Up: Strategies for existing SolSmart designees to continue to improve your local solar market and grow your impact. Webinar offered Feb. 28, <http://tinyurl.com/4jwr5s2h>.

WEBINARS

CML MUNICIPAL ELECTION SERIES: CANVAS, RECOUNTS, FINAL ELECTION QUESTIONS

Thursday, March 14

During this webinar, participants will learn information and tips on what happens after the polls close, including recounts and canvassing the vote. Additionally, you'll have a chance to ask your final election questions. Register online at <http://tinyurl.com/5xarvmsb>.

CML MUNICIPAL ELECTION SERIES: ELECTION DEBRIEF AND TALES TO TELL

Thursday, May 9

During this webinar, a wide-ranging conversation will engage attendees in an election debrief, provide insights, and share stories covering what worked, what did not, and what clerks wished they had known ahead of the elections. Register online at <http://tinyurl.com/mtpv7eep>.

Apply today for annual conference scholarship — deadline March 1

Plans are underway for the Colorado Municipal League Annual Conference, held June 18-21 in Loveland.

The conference is CML's 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. In addition to the time devoted to educational and programmed meetings, many delegates feel the conference gives them a unique opportunity to meet and network with municipal officials from communities across the state with similar concerns.

CML is pleased to offer 10 conference scholarships to the 2024 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 applica-



2024 ANNUAL CONFERENCE LOVELAND • COLORADO

tion per municipality) will receive complimentary registration; lodging (arranged by CML at a contracted hotel); travel stipend; and a ticket for lunch on Wednesday and Thursday; and a ticket for one of the following: Elected Officials Breakfast, Man-

agers Breakfast or Attorneys Luncheon on Friday, (Note: Municipalities that had a conference scholarship awarded to someone in their city or town in 2023 are not eligible to receive a scholarship for 2024.)

More information and an application for the scholarship is available on the CML website, <http://tinyurl.com/yc5dtkuw>. Scholarship applications must include all necessary paperwork and be returned to CML by Friday, March 1. Incomplete applications will not be considered.

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

We hope you or someone in your municipality will consider this opportunity to join colleagues from around the state for a productive, exciting, and rewarding conference.

BROADBAND

Colorado BEAD deadline approaches

Colorado has received \$826.5 million from the Broadband Equity, Access and Deployment (BEAD) federal program to invest in broadband infrastructure and digital equity programs that ensure all Coloradans can access high-speed internet.

The Advance-BEAD Challenge Process is an opportunity for ISPs, nonprofits, and local and tribal governments to help ensure the accuracy of the eligible location data. The Advance-BEAD Challenge window closes Feb. 9. Registered users must log in to the portal and submit challenges by the deadline.

More information is available online, <http://tinyurl.com/3tfd4ft2>.

NLC develops toolkit to help municipalities reach out to small landlords

Mom-and-pop landlords are the majority owners of small, multi-family residential units — which are often the affordable housing options in local communities — and are critical to preventing evictions. They are also more likely to be socially and economically vulnerable and house lower-income tenants. Engaging mom-and-pop landlords is key to longer-term eviction prevention efforts,

housing stability, and supporting both vulnerable renters and landlords.

This toolkit includes a series of resources developed for municipal leaders interested in building or refining their strategies for engaging landlords. These resources offer important insight into key elements of a successful landlord engagement strategy.

More information is available on the NLC website, <http://tinyurl.com/mtcyr572>.

Commission on Property Tax hosts Community Conversations

Colorado's Commission on Property Tax was created to study and make recommendations for a property tax structure that protects property owners and residential tenants from rising property taxes while meeting the needs of governments that rely on property tax to pay for local services. To do this well, commission members want to

hear directly from Coloradans to better understand your priorities, concerns, and ideas related to the unique challenges communities are facing.

Light snacks and Spanish interpretation will be provided at each meeting. Meeting dates and registration are available at <http://tinyurl.com/yvk7r3ce>.

RESEARCH CORNER

A MUNICIPAL GUIDE TO COLORADO'S REGULATION OF PLASTIC PRODUCTS



Data visualization by **RACHEL WOOLWORTH**, CML municipal research analyst, and **ALEX MILLER**, CML publication & design specialist

Various provisions of a state law banning single-use plastic carryout bags and expanded polystyrene containers are taking effect this year as Colorado seeks to diminish its reliance on plastic products.

House Bill 21-1162, Concerning the Management of Plastic Products, leaves the enforcement of such bans to local governments. Some municipalities, such as the City of Denver, are using online reporting systems to monitor compliance with bag fees while others, such as Grand Junction, are educating businesses about the plastic bag and polystyrene container bans without monitoring compliance.

Under the law, stores and retail food establishments are required to remit 60% of the bag fees to local governments unless the municipality or county in which it is located has not established a process to accept the fees; businesses may keep the rest. Local governments can use bag fee revenues to pay for administrative costs associated with the law and/or recycling, composting, or other waste diversion programs. Such remittance fees are expected to decrease each year as shoppers adapt to the cost of bags.

Colorado is one of 12 states that maintains a ban on single-use plastic bags. Some of the state's municipalities, such as Fraser, Louisville, and Steamboat Springs, maintain costlier bag fees than the 10-cent fee set by the state.

For more information on implementation of the law, watch CML's webinar on HB21-1162 at <http://tinyurl.com/22duffrz>. Additionally, Eco-Cycle offers an array of implementation resources for Colorado's local governments and business communities at <http://tinyurl.com/33z8jvzn>.

TIMELINE

January 2023

Statewide 10-cent fee on single-use plastic bags and recycled paper bags goes into effect for stores and retail food establishments

January 2024

Statewide ban on single-use plastic bags goes into effect for stores and retail food establishments

- Plastic bag inventory purchased before 2024 may be sold to customers for 10-cent fee until June 1
- Businesses may continue selling recycled paper bags for 10-cent fee
- Exemptions include but are not limited to: shoppers utilizing food assistance programs, businesses with three or fewer locations in the state, pharmacies

Statewide ban on polystyrene food and beverage containers goes into effect for retail food establishments

- Polystyrene containers purchased before 2024 may be used until supply is depleted

July 2024

Statutory local governments may begin imposing stricter rules on plastic products. Home rule local governments likely have the authority to impose stricter rules on plastic products at any time.

ACTIONS FOR MUNICIPALITIES TO CONSIDER

- ✓ Educate your business community about the law
- ✓ Set up a system to collect remittance of bag fees
- ✓ Develop an outreach and/or enforcement strategy. Local governments may impose a civil penalty against a business of up to \$500 for a second violation or up to \$1,000 for a third violation.

CML LEGAL CORNER



Legal challenges to municipal penalties

By Rachel Bender,
CML senior associate counsel

In Nov. 2023, the Colorado Supreme Court granted a Petition for Relief filed by defendants seeking direct relief from a municipal court ruling in the home rule City of Rifle (*Mobley v. City of Rifle*, 2023SA289). In brief, the defendants sought to invalidate Rifle’s municipal penalty for low level theft — a penalty that exceeded the state penalty for substantially the same crime.

While this case was short-lived because Rifle elected to amend its ordinance to bring its penalty in line with the state penalty, other municipalities should take heed of the legal challenges. It is only a matter of time before more municipalities see similar challenges regarding municipal penalties that exceed state penalties for the same crime.

WHY IS THIS ISSUE ARISING NOW?

In 2021, the Colorado General Assembly passed Senate Bill 21-271 — a sweeping bipartisan bill to restructure the state’s misdemeanor laws including adjusting the offense level and associated punishment for many criminal offenses. The bill went into effect March 1, 2022. This legislation did not expressly or impliedly preempt municipal penalties that exceed state penalties for the same offense, nor was there a clear expression of intent to do so.

SB21-271 had the effect of creating a new disparity between municipal and state penalties. Although SB21-271 did not alter the long-standing cap on municipal penalties in C.R.S. § 31-16-101, historically, this statutory cap has largely followed the dividing line between misdemeanor and felony penalties. While some municipalities adjusted their

penalties in response to SB21-271, many did not, whether unintentionally or as a local policy choice.

LEGAL CHALLENGES IN THE RIFLE CASE

In the Rifle case, the defendants raised two arguments — (1) that the issue before the court is a matter of mixed state and local concern and the state’s laws preempted the home rule city’s ordinance, and (2) that Rifle’s greater penalty violates equal protection in the Colorado Constitution. Below is a quick overview of these two issues and some starting considerations for municipalities who may have to address these arguments.

On the first argument, if an issue is a matter of local concern, local law supersedes state law but the reverse is true if an issue is a matter of mixed or state concern. Courts look to several factors to determine this issue (see *City & County of Denver v. State*, 788 P.2d 764 (Colo. 1990), for the identification of these factors by the Colorado Supreme Court) but have not addressed the narrow issue of whether municipal ordinance penalties are a local concern. Among the legal support for such a finding is Art. XX, Sec. 6(h) of the Colorado Constitution, which provides that home rule municipalities have control over “[t]he imposition, enforcement and collection of fines and penalties for the violation of any of the provisions of the charter, or of any ordinance adopted in pursuance of the charter.” Some courts have expressed support for municipal control of such penalties even when they vary from similar state offenses.

On the second legal issue, the defendant argued that different possible sentences for essentially the same

crime violates equal protection under the Colorado Constitution depending on whether the defendant was charged in municipal or state court. Disparate sentencing arises for a variety of reasons — different local versus state versus federal laws; different courts; different judges; different prosecutors and defense attorneys; and different policies and rules across the state. Each of these factors, among others, impact a person’s sentence. Colorado’s courts have yet to examine this question.

WHAT NEXT?

Although only a couple municipalities have been subject to these legal challenges so far, more are likely to come, especially in the absence of a ruling from an appellate court. Some municipalities may wish to conform their municipal penalties to state law to avoid litigating the legal challenge, as in Rifle. Others may wish to examine their municipal ordinances to determine if a distinct local regulation of conduct is appropriate. Municipalities with different local penalties might consider establishing a local charging policy to ensure consistent treatment of violators in the jurisdiction by charging each violator the same way or, alternatively, identify bases for charging violators under state law versus local law.

If your municipality finds itself facing these claims, please reach out to me at rbender@cml.org; CML is always willing to collaborate with our members and help connect you with other municipalities facing the same issues.

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



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- Grand Junction reaches out to non-English speaking community
- Research Corner: A municipal guide to Colorado plastic regulations
- Legal Corner: Legal challenges to municipal penalties

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NEWSLETTER

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