

Legislative Wrap-Up

The 2011 legislative session has ridden into the sunset, and left behind a mixed bag of results, and even more important, non-results.

This session marked the first time in the past ten years that the House and Senate have been controlled by different parties, and the result was a very pronounced “check and balance,” as many of the most controversial and extreme measures supported by one party, or one house, were summarily defeated in the other house. The bills that passed and made it to the Governor’s desk were generally those that were middle of the road, non-controversial, or obviously important to the well-being of the state and its citizens.

There were 597 bills introduced, compared with 649 bills introduced in 2010. Many of the bills introduced were “late bills,” introduced with permission of leadership after the normal deadlines for introduction had passed. Of the bills introduced, 261 failed while 336 passed. In 2010, 191 bills failed, while 458 passed.

On behalf of special districts, we tracked forty-five bills, of which 23 were killed, and seven were eventually amended or interpreted to not affect special districts. Of the fifteen remaining bills that passed, several affected special districts only peripherally, as part of general budget bills or procedural issues.

BILLS RESULTING IN NEW LAWS FOR SPECIAL DISTRICTS:

The following bills that passed included some aspects of direct impact for special district operation or procedures:

HB11-1115, Construction Retainage:

As introduced, this bill made sweeping and inconsistent changes in the laws regarding retainage in public construction contracts by public entities. After a long series of negotiations with local governmental entities and the construction industry, the bill, as passed, was narrowed down to the following provisions:

--Changes allowable retainage from 10 percent until fifty percent completion of the project, to 5 percent throughout the life of the project.

--Requires final payment within 60 days after all provisions of the contract have been satisfactorily completed and accepted by the owner.

--Permits partial payment of retained amounts to parts of the project that have been completed.

HB 11-1124, Declaration of Board Position with HOA Executive Board:

In its original form, this bill prohibited a person to serve on a metropolitan district board of directors concurrently while serving on an HOA Executive Board. This provision was, however,

stricken, and replaced with a provision requiring candidates for special district director positions to disclose on the self-nomination form if they also served on a unit owners' association (HOA) board. It will now be necessary for special districts to include some form of disclosure on or with their self-nomination forms for candidates to disclose if they are also on a unit owners' association board. Obviously this disclosure will be public information.

HB11-1146, Defining Agricultural Land for Property Tax Purposes:

This bill amends the existing statutory definition of agricultural land for purposes of property taxation to exclude from agricultural classification, up to 2 acres of land associated with a residential improvement located on such agricultural land unless the residence is integral to an agricultural operation conducted on the land. An unfortunate amendment requires a TABOR election if reclassifying the residential portion results in increased tax revenue from the property tax thereon.

HB11-1202, Appropriated Funds for Change Orders Prior to Work:

This bill requires a clause in all public works contracts to state that appropriations must be available (funds ready to pay) to a public entity prior to the performance of any work conducted by a contractor pursuant to a change order.

HB11-1211, Restricting Travel Reimbursement for State Chartered Entities:

HB11-1211 is aimed at curtailing the extravagant travel habits of Pinnacol Assurance, the state-sponsored workers compensation provider. It defines "state-chartered entities", and then prohibits any state-chartered entities from providing travel reimbursement to board members or staff members that exceeds two times the federal per diem rate for travel, lodging, and meals and incidentals. It also prohibits reimbursing or paying for any expenditures on behalf of spouses and family members of "covered persons." Unfortunately, the bill included cities, counties, school districts and all Title 32 special districts, as "covered entities."

In concert with other local government associations, SDA lobbied hard to have local governments removed from the effects of the bill, and succeeded in having an amendment adopted that clearly states that the bill does not cover cities, counties, school districts or special districts. As the bill passed, these entities are not included, and are not affected by the bill's limitations. Certain state-chartered entities, such as Pinnacol, PERA, the Colorado Housing and Finance Authority, the Colorado Health Care Authority, and Fire and Police Pension Authority, are subject to its provisions.

HB11-1305, Concerning Residential Valuation Assessment Ratio:

The Gallagher Amendment requires a statewide property valuation assessment every two years, and requires the rate of assessment valuation for residential property to be adjusted to maintain the "Gallagher ratio" between residential and non-residential property. This bill sets the residential assessment rate at 7.96 percent for property tax years 2011 and 2012. This rate remains unchanged from the rate in effect for the prior two years.

SB11-040, Concussion Training for Coaches of Youth Sports Programs:

Each public and private middle school, junior high school, or high school and each private club or recreation facility is directed to require each coach with primary supervisory responsibility for a youth athletic activity to complete annual concussion recognition education. The bill spells out what must be included in the training, which is included in several places on line. It also requires that if a coach suspects that a youth athlete (age 11 through 18) has sustained a concussion, the coach must remove the youth athlete from a game, competition, or practice, and unless the signs or symptoms can be readily explained by another condition, the youth athlete must not be permitted to return unless the youth athlete has been evaluated by a health care provider and has received written clearance to return to play from a licensed health care provider. The bill provides limited immunity to a volunteer coach and other individuals who assist as volunteers, and to members of the board of directors of a school district, private club, or recreation facility, which includes park and recreation districts.

SB11-057, Concerning Certain Metro District Mail Elections:

This bill allows the designated election official of a metropolitan district having 10,000 or more electors to only send mail-in ballots to eligible electors:

- that returned a ballot in one of the two most recent elections;
- is notified by post card that their name is about to be removed from the mail-in voter list;
- that appeared on the mail-in voter list after the most recent election; or
- that requested to be reinstated on the mail-in voter list.

SB11-221, Old Hire FPPA Plans, State Contributions

Makes the following changes related to the state's annual contribution to assist in amortizing the unfunded accrued liability of old hire pension plans affiliated with the fire and police pension association (FPPA):

- *The state's contribution for the 2011-12 fiscal year (FY) is reduced by \$20,000,000;
- *for 2012-13 FY is reduced by \$15,321,079;
- *the state's final contribution is delayed by 4 fiscal years; and
- *the payment required during the 2018-19 fy is adjusted to include any additional amounts that are caused by the reductions in the 2011-12 and 2012-13 fiscal years. In addition, the calculation for determining a local government's contribution is adjusted to be based on eliminating unfunded liabilities not later than June 30, 2019.

BILLS OF CONCERN TO SPECIAL DISTRICTS THAT DIED:

Concerning the elimination of Business Personal Property Tax:

A priority issue for several of Colorado's business promotional organizations has been the elimination of property taxes levied on business personal property, such as furniture, manufacturing equipment, computer systems, etc. This year four bills were introduced, each

proposing a different formula and timetable for the eventual complete elimination of property taxation of this business personal property tax. Although SDA is very sympathetic to this business concern, the potential lost revenue for districts, and the significant shifting of tax burdens among population sectors, that would result from the loss of business personal property taxation, makes it mandatory that SDA lobby against such bills, unless some manner of replacing the lost revenue is included.

In addition, the loss of the business personal property tax would result in a devastating loss to school districts, which must be made up by the state budget. Given the state budget shortfall this past year, the State could not have absorbed this added backfill requirement. Through intense opposition by SDA and other local government entities, all four of the bills were killed in the Democrat controlled Senate.

Dead Bills, May They Rest in Peace:

SB11-072: Civil Rights Enforcement: Would have set up an enforcement system through the state civil rights commission that would have rivaled the Federal Civil Rights Commission in complexity, and made it much easier to a complainant to proceed with a civil rights action in the state system.

SB11-097: Optional Posting of Public Notices On-line: Would have allowed legal notices and certain other notices to be posted on a web site rather than in a newspaper.

HB11-1059: Restricting Local Government Accident Fees: Would have restricted public safety and emergency medical providers from charging for extrication, traffic control and cleanup of automobile accidents. It was amended to prohibit such charges within the boundaries of some 25 cities on the front range, but not the rest of the state. It was killed in Senate Committee.

SENATE CONCURRENT RESOLUTION 11-001 DIES IN FINAL HOURS OF SESSION:

SCR 11-001, Sponsored by Senator Shaffer, D., Longmont, and Rep. Murray, R. Douglas County, would have submitted a ballot question to the electors of the state, to change the constitutional process for submitting an initiated ballot question in the future. Among other things, it would have required more signatures on a constitutional question than for an initiated statutory change; required that a portion of the signatures be gathered from each Congressional District; and provided a protective period of three years during which an initiated statutory change could only be amended by the legislature with a 60 percent majority. This resolution was passed by the Senate with broad bipartisan support in February. The House then passed it with amendments, and sent it back to the Senate to concur in the House amendments, where it sat without action. In a surprise move, the resolution was pulled up by the Senate on the last day of the session, and House

amendments were not concurred with. The House then declined to take action on the Senate's action, and the resolution died as time ran out in the session.