

LOCAL GOVERNMENT

County Governance

HCR 10-1001 (Postponed Indefinitely)
*County To Set Salaries Of County
Officers*

SB10-097 (Postponed Indefinitely)
*County Home Rule Charter
Commissions*

SB10-182 (Enacted)
*Implementing County Salary
Commission Recommendations*

SB10-209 (Enacted)
Allocation of National Forest Payments

Energy Conservation and Building Codes

HB 10-1267 (Enacted)
*Property Tax of Independent Residential
Solar*

HB 10-1331 (Postponed Indefinitely)
*Governor's Energy Office Green
Building Incentive Program*

HB 10-1358 (Enacted)
Water Smart Homes

Fire Districts / Volunteer Firefighters / Fire and Police Pensions

HB 10-1016 (Enacted)
*FPPA Retired Board Member Term
Extension*

HB 10-1095 (Enacted)
Fire Protection District Accident Fees

HB 10-1399 (Enacted)
*Bureau Of Investigation Assisting Fire
Chiefs*

SB 10-021 (Enacted)
Volunteer Firefighter Pension Plan

SB 10-022 (Enacted)
*FPPA Defined Benefit Member
Contribution*

SB 10-023 (Enacted)
Return To Work By FPPA Member

SB 10-024 (Enacted)
Eliminate FPPA Affiliated Local Plans

Homeowners' Associations

HB 10-1278 (Enacted)
*Creation Of An Information Officer For
Matters Under The "Colorado
Common Interest Ownership Act"*

HB 10-1290 (Postponed Indefinitely)
*Small HOAs Elect To Exempt From
CCIOA*

Local Taxes / Tax Revenues

HB 10-1046 (Enacted)
*Receipt of Tax Payment by County
Treasurer*

HB 10-1117 (Enacted)
*Property Tax Procedures Of County
Officers*

HB10-1386 (Enacted)
Property Tax Exemption Filing Fees

SB 10-138 (Enacted)
Property Tax Appeal Fees and Costs

SB10-142 (Enacted)
Local Sales Tax Appeal Time Limit

SB10-209 (Enacted)
Allocation of National Forest Payments

Property / Land Use

HB 10-1017 (Enacted)
*Voluntary Agreement Affecting Renting
Private Residential Property*

HB 10-1046 (Enacted)
*Receipt of Tax Payment by County
Treasurer*

HB 10-1084 (Postponed Indefinitely)
*Foreclosed Property Volunteer
Cleanup Liability*

HB 10-1118 (Enacted)
*County Regulations Of Distressed
Property*

HB 10-1143 (Enacted)
Land Use At RTD Transfer Facilities

HB 10-1151 (Postponed Indefinitely)
Disclose Property Near Airports

HB 10-1158 (Postponed Indefinitely)
Clarify Wind Rights

HB10-1165 (Enacted)
*State Land Board Conveying Property
To Local Governments*

HB 10-1205 (Enacted)
*Local Land Use Planning For Military
Installations*

LOCAL GOVERNMENT (Cont.)

HB10-1259 (Enacted) <i>Conforming Annexation Act To The State Constitution</i>	HB10-1292 (Deemed Lost) <i>Conditions On Land Use Approvals Imposed By Local Governments</i>	HB 10-1386 (Enacted) <i>Property Tax Exemption Filing Fees</i>
SB10-181 (Enacted) <i>Municipal Authority To Lease Land</i>		
Special Districts		
HB10-1243 (Enacted) <i>Transportation Powers Of Special Districts</i>	HB 10-1328 (Enacted) <i>New Energy Jobs Creation Act and New Energy Improvement Districts</i>	HB 10-1362 (Enacted) <i>Inactive Special Districts</i>
SB 10-046 (Enacted) <i>Boundaries Of Forest Improvement District</i>	SB 10-100 (Enacted) <i>Cross-boundary Energy Improvement District</i>	
Urban Renewal Authorities / Downtown Development Authorities		
HB 10-1107 (Enacted) <i>Urban Renewal Areas Limiting Agricultural Lands</i>		

County Governance

The General Assembly considered several bills addressing county governance during the 2010 legislative session.

Salaries of elected county officials. **Senate Bill 10-182** implements two recommendations made in the 2010 report to the General Assembly issued by the County Elected Officials' Salary Commission. The commission is charged to consider the salaries of county elected officials and to make salary recommendations to the General Assembly every four years. The law changes the timing and frequency of when the commission will meet and submit its report to the General Assembly. The bill requires the commission to submit its next report by the first day of the 2011 legislative session, and every two years thereafter. The law also clarifies language regarding payments to a county surveyor.

House Concurrent Resolution 10-1001, which was postponed indefinitely, would have submitted to voters the question of whether to transfer the authority to set the salaries of elected county officers from the General Assembly to each county's board of county commissioners.

County PILT (payments in lieu of taxes) funds. The federal government makes annual payments to 43 Colorado counties to compensate for the tax-exempt status of national forest lands. This compensation is provided through national forest payments from the U.S. Department of Agriculture and payments-in-lieu of taxes (PILT) from the Department of the Interior.

Current law establishes the current formula for national forest payments, which allocates a minimum of 25 percent of the national forest payments to a county's road and bridge fund; 25 percent to the public schools in the county; and with remaining 50 percent of the funds to be allocated by

county representatives with equal participation from representatives of the board of county commissioners and the public schools in the county.

The General Assembly intended to create a methodology that benefitted both counties and schools through House Bill 09-1250. However, in some cases, the current statutory formula may reduce the amount of federal PILT funds based on the total amount of national forest payments that a county distributes to schools. Specifically, some counties may be penalized by the federal PILT formula if additional national forest payments are distributed to public schools over the current statutory minimum of 25 percent. **Senate Bill 10-209** permits waiving the 25 percent minimum allocations if it will increase a county's ability to maximize federal PILT payments.

County home rule charter process. Senate Bill 10-097 would have modified the method of appointing members to a home rule charter commission and removed the authority of a county to establish a mill levy to pay for the expenses of the commission. Currently, counties must hold a special election to decide if a home rule charter commission will be established and to elect its members.

The bill would have required that county commissioners appoint charter commission members following a public hearing where the board determines whether a commission should be formed. The bill also set requirements for the appointments by the board and for the development of a proposed charter by the commission.

Finally, the bill would have altered the process for submission of a proposed charter to the registered electors of a county. Upon final acceptance of the charter by the board of county commissioners, the board would have been required to refer the charter to the registered electors at a coordinated election or general election with at least 100 days prior to such election.

Energy Conservation and Building Codes

Energy-efficient homes. The General Assembly considered three bills concerning energy-efficient homes. The issue of water conservation in new homes was addressed by **House Bill 10-1358**, which requires the builder of a new single-family residence to offer the buyer a selection of certain water-smart home options. The law applies to contracts for new single-family detached residences occurring on or after August 11, 2010.

House Bill 10-1267 exempts leased residential solar systems from property tax by defining these facilities as household furnishings. To qualify for the exemption, the law specifies that solar electric generation facilities cannot be owned by the residential property owner, cannot have a production capacity in excess of 100 kilowatts, and cannot produce income for the homeowner.

House Bill 10-1331, which was postponed indefinitely, would have created the Green Building Incentive Pilot Program to be developed and administered by the Governor's Energy Office (GEO). Under the program, GEO would have awarded grants to qualified applicants who were preparing to sell their current homes with energy efficiency ratings below minimum standards and purchase highly efficient new residential construction. Grants would have been awarded for the purpose of allowing applicants to make energy efficiency improvements to their current residences to increase their marketability.

Fire Districts, Volunteer Firefighters, and Fire and Police Pensions

Several bills were considered by the General Assembly to address fire districts, volunteer firefighters and fire and police pensions.

Fire protection districts. During the 2009 legislative session, the General Assembly passed House Bill 09-1041, which allowed a fire protection district board to charge fees for certain emergency safety services. In 2010, the law bill was clarified by **House Bill 10-1095**, which limits a fire protection district's authority to charge for rescue or extrication services to only those services provided at the scene of a motor vehicle accident.

Currently, the Colorado Bureau of Investigation (CBI) responds to requests for assistance in investigations from local law enforcement agencies, but not from fire departments. **House Bill 10-1399** allows local fire chiefs to request assistance from CBI for arson investigations.

Fire and police pensions bills. Firefighter and police officer pensions are governed by state and federal law, but their funding comes primarily from contributions made by employees and local government employers. The largest pension plan is administered by the Fire and Police Pension Association of Colorado (FPPA), while some plans are administered locally. The General Assembly adopted several bills that concern the authority of the FPPA board of directors and were recommended by the Police Officers' and Firefighters' Pension Reform Commission during the 2009 interim.

House Bill 10-1016 extends the term of the retired firefighter or police officer serving as a member of the FPPA board of directors from four years to six years.

The FPPA passed a temporary rule in 2008 to suspend benefit payments for any retired member returning to work, but allowing for additional benefits to accrue during re-employment. The temporary rule currently affects around three individuals, but the board expects a greater number of retirees to return to work for employers participating in the statewide defined benefit plan. **Senate Bill 10-023** allows the FPPA board of directors to adopt rules concerning a retired member receiving benefits under the defined benefit plan who returns to work for a participating employer. Provided there is no adverse actuarial impact, the law authorizes the board to adopt rules that:

- suspend benefits for a retired member who returns to work;
- clarify when a retired member returning to work may earn additional service credit and whether benefit distribution resumes when the member separates from that employer; and
- allow members who have reached normal retirement age and separated from service to continue receiving benefits and earn additional retirement benefits in an alternate money purchase plan.

Senate Bill 10-022 expands the authority of the FPPA board of directors to increase the member contribution rate if the increase:

- does not require an increase in the employer contribution rate;
- does not adversely affect the plan's status under federal law;
- is approved by 65 percent of active plan members;
- is approved by more than 50 percent of employers with active plan members;

- is not subject to negotiation for payment by employers; and
- is paid by a member's salary.

The statutory requirement that employer contribution rates be equal to member contribution rates would not apply to member contribution rate increases made pursuant to the law.

Currently, there are no local money purchase plans affiliated with the FPPA, and the majority of local entities that left the FPPA system to create money purchase plans have since re-entered the FPPA defined benefit plan system. **Senate Bill 10-024** repeals the authority of the FPPA board of directors to enter into agreements with an employer for money purchase plans where the board manages and invests funds held in such plans. Affiliated money purchase plans are removed from the Fire and Police Members' Self-directed Investment Fund, and audit requirements for any such plans are eliminated.

Volunteer firefighters. **Senate Bill 10-021** makes several technical changes to current law addressing volunteer firefighter pension plans. Specifically, the law:

- permits retired fire department members, including those who have returned to active service, to serve on the board of trustees of a volunteer firefighter pension fund;
- eliminates an investment restriction on trustees of volunteer firefighter pension funds;
- eliminates a requirement that the board of trustees of a volunteer firefighter pension fund deliver a copy of a report on the condition of the fund to the district's board of directors; and
- eliminates the exclusion of the reimbursement for lost wages from the definition of "compensation," as the term is used in the definition of "volunteer firefighter."

Homeowners' Associations

Common interest communities. The General Assembly considered two bills addressing common interest communities. Current law authorizes the creation of common interest communities to be governed by unit owners' or homeowners' associations (HOAs). Currently, there are approximately 12,000 common interest communities or HOAs in Colorado. **House Bill 10-1278** creates an HOA information officer and HOA Information and Resource Center in the Division of Real Estate, under the Department of Regulatory Agencies. The center will serve as a clearinghouse for information concerning the rights and duties of unit owners, declarants, and unit owners' associations. The office may also track inquiries and complaints concerning HOAs.

Under the new law, every HOA in the state must register with the director of the Division of Real Estate on an annual basis, and an annual registration fee will be established and distributed to the HOA Information and Resource Center Cash Fund, to cover the operating expenses of the HOA Information and Resource Center. An HOA that fails to register with the division, or whose annual registration has expired, is ineligible to impose or enforce a lien for assessments, pursue any action, or employ any enforcement mechanism until it obtains a valid registration. The bill also requires a sunset review of the HOA Information and Resource Center by September 1, 2020.

House Bill 10-1290, which was lost on third reading in the House of Representatives, would have allowed a small common interest community to be exempt from most of the provisions of the Colorado Common Interest Ownership Act (CCIOA), upon a vote of its members or shareholders.

The bill would have applied to common interest communities that have 20 units or less, do not impose expense assessments of over \$400 per year, or have annual revenue or expenses of less than \$250,000.

Local Taxes / Tax Revenues

Changes to tax deficiency and abatement process. When a taxpayer owes sales or use taxes in excess of the amount paid, the appropriate local government must mail a deficiency notice to the taxpayer by certified mail. **Senate Bill 10-142** requires that any taxpayer protest must be filed with the local government within 30 days after the date of the notice.

Current law allows a board of county commissioners or a county assessor to issue an abatement or refund of up to \$1,000 to a taxpayer without approval of the property tax administrator from the Division of Property Taxation. **House Bill 10-1117** raises this amount to \$10,000 and allows county treasurers to send tax statements to a taxpayer electronically if the taxpayer requests. The law also requires treasurers to comply with a taxpayer's request to cease electronic transmission and receive future tax statements by mail.

Under current law, when a taxpayer obtains an adjustment to the valuation of property from the county board of equalization or a district court decision, the county must refund the taxpayer's costs and witness fees. Similarly, the county is entitled to recover its costs if the decision is made in its favor. Under **Senate Bill 10-138**, the appellant and the county are each responsible for their respective costs.

Legislation addressing property taxes. The Property Tax Exemption Program in the Division of Property Taxation, Department of Local Affairs, is responsible for determining qualifications for exemption from property taxation for properties that are owned and used for religious, charitable, and private school purposes. The program is funded with filing fees charged to property owners who apply for property tax exemption status, or by those submitting the annual reports required to maintain exempt status. The fee structure was authorized by statute in 2003, but does not provide enough cash-funds to maintain the current program. **House Bill 10-1386** modifies the filing fees and allows the property tax administrator to waive all or a portion of late filing fees for good cause shown. Specifically, this law adjusts the filing fees that accompany applications to the Property Tax Administrator for tax-exempt status applications on real and personal property. The bill will create an annual General Fund savings of \$169,742, but requires an appropriation of \$301,073 from the Property Tax Exemption Fund to the Division of Property Taxation for the direct and indirect costs of administering the property tax exemption program.

Deadline for property tax payments. **House Bill 10-1046** clarifies how county treasurers must record property tax payments that arrive after the due date without a postmark from the United States Postal Service (USPS). If a payment has no postmark and is received in the treasurer's office up to five days after the due date, a treasurer will record the due date as the date of payment. If payment is received six or more days after the due date, the treasurer must record the date of actual receipt as the date of payment.

County PILT funds. The federal government makes annual payments to 43 Colorado counties to compensate for the tax-exempt status of national forest lands. This compensation is provided through national forest payments from the U.S. Department of Agriculture and payments in lieu of taxes (PILT) from the Department of the Interior.

House Bill 09-1250 established the current formula for national forest payments, which allocated a minimum of 25 percent of the national forest payments to a county's road and bridge fund; 25 percent to the public schools in the county; and the remaining 50 percent of the funds are allocated by county representatives with equal participation from representatives of the board of county commissioners and the public schools in the county.

However, in some cases, the prior statutory formula could reduce the amount of federal PILT funds based on the total amount of national forest payments that a county distributes to schools. Specifically, some counties may be penalized by the federal PILT formula if additional national forest payments are distributed to public schools over the current statutory minimum of 25 percent. **Senate Bill 10-209** permits waiving the 25 percent minimum allocations if it will increase a county's ability to maximize 2009 federal PILT payments, and repeals the allocation waiver provisions on July 1, 2001. For counties that may have reduced PILT payments in FY 2010-11, this bill provides an opportunity to change the manner in which national forest payments are allocated to maximize the PILT payments.

Property and Land Use

The General Assembly considered several bills concerning foreclosures and local land use authority during the 2010 legislative session.

Annexation law. House Bill 10-1259 harmonizes the Municipal Annexation Act of 1965 with Article II, of Section 30, of the Colorado constitution, which was approved by the voters in 1980. The bill conforms statutory language with the annexation requirements specified in the state constitution, which state that annexation of an unincorporated area to a municipality is prohibited unless one of the following requirements has first been met:

- the annexation question has been submitted to a vote of the landowners and the registered electors in the area proposed to be annexed, and the majority of the voters approved the annexation;
- the annexing municipality has received a petition for the annexation signed by at least 50 percent of the landowners in the area that own at least 50 percent of the area, excluding public streets and alleys and any land owned by the annexing municipality; or
- the area is entirely surrounded by or is solely owned by the annexing municipality.

Affordable housing. Under current law, rent control is considered a matter of statewide concern and any county or municipality is prohibited from enacting any ordinance that would control the price of rent on private residential property. While this language remains in state law, **House Bill 10-1017** authorizes agreements between local entities and property developers to preserve affordable housing. Specifically, the law provides that a local ordinance or resolution to control rent on a private residential housing does not include:

- an individualized negotiated agreement to limit rent on the unit or to otherwise preserve affordable housing stock; or
- the placement on the title to the unit of a deed restriction that limits rent on the unit or that is otherwise designed to preserve affordable housing stock.

Such agreements can specify how long a private residential housing unit is subject to its terms, whether a subsequent property owner is subject to the agreement, and remedies for early termination.

Foreclosures. Two bills addressed the safety and upkeep of foreclosed property. **House Bill 10-1118** authorizes a board of county commissioners to regulate distressed real property through the adoption of an ordinance as a matter of purely local concern. The law defines "distressed real property" to mean any vacant, foreclosed, or abandoned real property. At a minimum, the boards may require that real property be secured, maintained, and insured. Counties may also require owners of distressed real property or foreclosing lenders to provide contact information for persons responsible for management of property. **House Bill 10-1084**, which was postponed indefinitely, would have specified that persons who go onto unoccupied property on an unpaid basis to clean up trash, remove weeds, or water the lawn would be presumed to have the landowner's implied consent. The law also would have amended the civil and criminal trespassing laws to exempt persons who engage in such activity, but only to the extent of that activity and so long as they do no actual damage to the property.

Wind and water rights on property. The General Assembly adopted two bills that specifically related to property with wind and water rights. Under current law, municipalities may purchase and sell lands that are connected with the acquisition of water rights. **Senate Bill 10-181** gives municipalities the additional land use option to lease these lands and generate rental income from the property.

Under current law, the space above the lands and waters of the state belongs to the surface owner. However, the law does not specify whether wind is part of that space and whether the landowner may sell or transfer wind rights to another while retaining ownership of the surface. **House Bill 10-1158**, which was postponed indefinitely, would have clarified several aspects of the ownership and right to use wind that blows across real property. The bill would have allowed wind rights to be "severed" or separated from the land and sold or leased, just as mineral rights are currently handled. The bill would have specified that the wind right belongs to the surface owner unless the right is separated from the surface property.

State land board conveying property to local governments. Several bills were considered by the General Assembly concerning the authority for local governments to lease or acquire property. Under current law, the State Board of Land Commissioners (board) may only transact directly with school districts and the federal government; all other transactions require a public bid. **House Bill 10-1165** authorizes the board to convey land to units of local government if the conveyance would add value to adjoining or nearby state trust property, benefit board operations, or comply with local land use regulations. Specifically, the law permits the board to conduct up to two direct land transactions with local governments each year until July 1, 2015. The law places criteria under which such a sale can be transacted, including:

- giving public notice and conducting public hearings;
- determining fair market value consistent with an independent appraisal; and

- executing the transaction only if it will add value to a nearby trust property, comply with local land use regulations, or benefit board operations.

The bill creates the financial warranty account in the State Land Board Trust Administration Fund and provides the board continuous spending authority over this account. The account will be used to hold damage deposits and can be used for remediation activities on damaged property.

Conditions on land use approvals imposed by local governments. Current law prohibits a local government from requiring a land developer to make a payment or dedication in exchange for a land use approval unless there is an essential nexus between the dedication or payment and a legitimate local government interest. Any dedication or payment must be roughly proportional in nature and extent to the impact of the proposed use or development of the property. **House Bill 10-1292**, which was deemed lost, would have clarified the conditions of land use approvals imposed by local governments to protect against imposing discretionary conditions upon a land use approval unless a condition is based upon duly adopted standards and imposed in a rational and consistent manner.

Land use near airports and military installations. Two bills were addressed by the General Assembly concerning land use near airports or military installations. **House Bill 10-1205** modifies statutory provisions affecting land use planning by county and municipal governments to address the impacts of military installations that are in close proximity to local government boundaries. Military installations include: a base, camp, post, station, airfield, yard, center, or any other land area under the jurisdiction of the U.S. Department of Defense that is larger than 500 acres. Specific military installations covered by the law include Buckley Air Force Base, Cheyenne Mountain Air Force Station, Fort Carson Army Post, Peterson Air Force Base, Schriever Air Force Base, and the United States Air Force Academy.

According to the law, county and municipal master plans must reflect the off-site noise impacts of any military installation located within its boundaries. The law requires local governments to take impact areas into account when plotting noise contours for an airfield and modifies requirements for local governments to notify military installations of certain zoning changes occurring near an installation. Military installations will have 60 days for review and comment regarding proposed local zoning changes occurring within two miles of its boundaries. Finally, the law clarifies that a county or municipality is not required to prepare a new master plan in order to satisfy any of the law's requirements.

A similar bill concerning residential property near airports was also considered by the General Assembly. **House Bill 10-1151**, which was postponed indefinitely, would have directed the Colorado Real Estate Commission to implement a rule requiring the seller of a residential property to disclose when the property is located within 5 miles of an airport, airpark, or military airfield. By using a new checkbox disclosure form on the property, a seller would have been protected from any claims by the purchaser for damage due to the property's proximity to an airport or similar facility.

Land use and transportation. Under existing law, the Regional Transportation District (RTD) may negotiate and enter into agreements with any person or public entity for the provision of retail and commercial goods and services to the public at transfer facilities. A transfer facility is defined as a public park-n-ride, bus terminal, light rail station, or other bus or rail transfer facility owned or operated by the district. **House Bill 10-1143** allows RTD to negotiate and enter into

similar agreements for the provision of residential or other uses at transfer facilities, as long as such uses are consistent with local laws relating to planning and zoning. The law also requires the provision of retail, commercial goods and services or the provision of residential or other uses at a transfer facility to be conducted in a manner that encourages multimodal access for all users.

Legislation addressing property taxes. The Property Tax Exemption Program in the Division of Property Taxation, Department of Local Affairs, is responsible for determining qualifications for exemption from property taxation for properties that are owned and used for religious, charitable, and private school purposes. The program is funded with filing fees charged to property owners who apply for property tax exemption status, or by those submitting the annual reports required to maintain exempt status. The fee structure was authorized by statute in 2003, but does not provide enough cash funds to maintain the current program. **House Bill 10-1386** modifies the filing fees and allowing the Property Tax Administrator to set fees commensurate with total program expenditures in the future. As a result, an annual General Fund savings of \$169,742 is anticipated. This law adjusts the filing fees for tax-exempt status applications on real and personal property and allows the Property Tax Administrator to adjust the fees by rule on an annual basis to ensure that fees are adequate to fully fund the direct and indirect costs of the program.

Deadline for property tax payments. Currently, if a payment is received after the due date, the law instructs county treasurers to use the postmark date from the United States Postal Service (USPS) to determine if a property tax payment is delinquent, since private postage meters often do not imprint a date. Current law also requires a USPS postmark when a postage meter is used and payments received without a USPS postmark must be returned. These requirements result in additional handling by the treasurer's office, imposition of charges for late payment, and sometimes confusion on the part of the taxpayer. **House Bill 10-1046** clarifies how county treasurers must record property tax payments that arrive after the due date. The law eliminates the requirement that late payments sent via private post have a USPS postmark in addition to a private postage meter postmark. If a payment has no postmark and is received in the treasurer's office up to five days after the due date, a treasurer will record the due date as the date of payment. If payment is received six or more days after the due date, the treasurer must record the date of actual receipt as the date of payment.

Special Districts

Special districts. Special districts are quasi-municipal corporations and political subdivisions approved by the governing body of a municipality or property owners to provide public services such as a fire and police protection, parks and recreation, and libraries, or for the purpose of public improvements or management of public facilities for district residents. Once created by the property owners, special districts have the power to levy taxes, charge fees, and own property. Board members are elected by the residents of the special district.

Transportation powers of special districts. Under current law, municipalities and counties may agree to an intergovernmental agreement to form a regional transportation authority for the purpose of financing, constructing, operating, or maintaining regional transportation systems or facilities. Currently, special districts are not authorized to be a member of an authority. **House Bill 10-1243** allows a metropolitan district to be a part of a regional transportation authority. The law also authorizes a metropolitan district that provides transportation-related services to seek voter approval in order to levy a sales tax and use tax on purchases within the unincorporated portion

of the district, the revenue from which could be used for safety protection, street improvement, or transportation purposes. Additionally, the law authorizes counties with populations of 100,000 or less to levy a sales tax for transportation related services.

New Energy Improvement Districts. **House Bill 10-1328** establishes the New Energy Improvement District, to administer and finance a new energy improvement program for home energy efficiency and renewable energy improvements. The program allows the district to provide assistance to any property owner completing new energy improvements or a consortium of property owners participating with other owners in completing new energy improvements that directly benefit the owner's property. Districts are statutory public entities that are governed by an 11-member board and are not subject to administrative direction by any state or local government agency. However, a new energy improvement program can only be conducted in counties where the board of county commissioners has explicitly authorized the program.

The program allows the district to provide reimbursement or a direct payment for all or a portion of the cost of completing the new energy improvement or interacting group of improvements. Additionally, a utility can count the energy savings achieved resulting from its efforts with the district toward its demand side management targets or goals established with the Public Utilities Commission. The specific powers and duties of the district include, but are not limited to the power to:

- develop and implement a process by which an owner of eligible real property may join the district;
- impose special assessments on eligible real property included in the district; and
- issue bonds payable from the special assessments for the purpose of generating the moneys needed to make a reimbursement or a direct payment to district members for all or a portion of the cost of completing new energy improvements.

Energy improvements are financed by bonds issued by the district and paid by special assessments levied on real property who voluntarily join the district.

Special district boundaries. Two bills concerning the boundaries of special districts were considered by the General Assembly in 2010. **Senate Bill 10-100** allows local improvement districts for renewable energy to cross county boundaries and include properties in multiple counties, if the county commissioners of the affected counties have entered into an intergovernmental agreement or a memorandum of understanding to share district costs. The act also expands the definition of renewable energy improvements for local improvement districts to include improvements located at a qualified community location rather than directly on a residential or commercial building.

Under current law, the governing board of a county or municipality may propose the creation of a forest improvement district if the boundaries of the new district include the entire territory of the county or municipality. **Senate Bill 10-046** allows forest improvement districts to be created with boundaries that do not necessarily coincide with a county or municipality, or may consist of noncontiguous tracts or parcels of property.

The General Assembly passed a bill that establishes procedures for designating a special district as inactive and for returning to active status. **House Bill 10-1362** allows a special district to designate itself as inactive, and requires that the district notify all involved entities at the local and

state level. A special district may only designate itself as inactive if it is in a pre-development stage and the district has no:

- residents within its boundaries, other than those living within the boundaries prior to the formation of the district;
- business or commercial ventures within its boundaries;
- general obligation or revenue debt;
- property tax mill levy in that fiscal year; or
- outstanding financial obligations or contracts.

During the period that a district is inactive, the district is exempt from certain requirements, such as submitting an annual budget, audit reports, and service plans to state and local entities. Under the bill, inactive districts may not issue any debt, impose a mill levy, or conduct any official business other than to conduct elections and to undertake procedures necessary to return to active status.

Urban Renewal Authorities / Downtown Development Authorities

The General Assembly considered legislation concerning urban renewal authorities and the use of tax increment financing for community development projects. Tax increment financing (TIF) is a method of using revenue from property or sales taxes to fund redevelopment projects in blighted areas. State law authorizes urban renewal authorities (URAs) and downtown development authorities (DDAs) to issue and repay redevelopment bonds by using the "increment" of increased taxes collected within the TIF district after improvements are made. For each taxing entity in the TIF district, tax revenue remains the same until the incremental revenue pays off the redevelopment bonds. Thus, local taxing jurisdictions are unable to receive any of the additional revenue from improvements until TIF bonds are paid off.

Urban renewal and agricultural land. **House Bill 10-1107** makes several modifications to law pertaining to urban renewal authorities, specifically that no area that has been designated as an urban renewal authority (URA) can contain any agricultural land, except for the conditions and exceptions stipulated in the bill. An urban renewal area is prohibited from containing any agricultural land unless:

- the agricultural land is determined to be a brownfield site according to the United States Environmental Protection Agency;
- the area containing the agricultural land is at least two-thirds contiguous with urban-level development and at least one-half of the area is determined to constitute a slum or blighted area;
- the agricultural land is an enclave within the territorial boundaries of a municipality and the entire perimeter of the enclave has been contiguous with urban-level development for at least three years;
- each public body that levies an ad valorem property tax on the agricultural land agrees in writing to the inclusion of the agricultural land within the urban renewal area; or
- the agricultural land was included in an approved urban renewal plan prior to June 1, 2010.

In addition to these exceptions, the bill provides no area that has been designated as an urban renewal area shall contain any agricultural land between June 1, 2010, and June 1, 2020, unless:

- the agricultural land is contiguous with an urban renewal area in existence as of June 1, 2010;
- the person who is the fee simple owner of the agricultural land as of June 1, 2010, is also the fee simple owner of land within the urban renewal area as of June 1, 2010, that is contiguous with the agricultural land; and
- both the agricultural land and the land within the urban renewal area will be developed solely for the purpose of creating primary manufacturing jobs for the duration of the period during which property tax revenues in excess of a base amount are paid into a special fund for the purpose of financing an urban renewal project.

When agricultural land is included within an urban renewal area the county assessor is required to value the agricultural land at its fair market value, but not affect the actual classification, or require reclassification of agricultural land for property tax purposes. County assessors are also authorized to provide written notice to a municipality if the assessor determines that agricultural land has been improperly included in a URA. If the notice is not delivered within 30 days, inclusion of the land in the URA shall be incontestable in any suit or proceeding. Other changes in the law include:

- expanding the grounds allowing counties to challenge information contained in urban renewal impact reports;
- allowing a waiver of certain requirements concerning the tax increment financing agreement between the municipality, URA, and county taxing entities;
- including a legal description of any agricultural land proposed for inclusion within the urban renewal area; and
- exempting a city and county from submitting an urban renewal impact report, which, under current law, the governing body of the municipality or urban renewal authority is required to submit to a board of county commissioners.