

# LOCAL GOVERNMENT

## Building Codes

**SB 12-081** (Postponed Indefinitely)  
Local Government Sprinkler  
Installation

**SB 12-120** (Postponed Indefinitely)  
Interior Design Document Submittals

**HB 12-1004** (Postponed Indefinitely)  
Colorado Timber Act

**HB 12-1319** (Postponed Indefinitely)  
Local Inspectors For School  
Plumbing & Electric

## County Governance

**HB 12-1159** (Postponed Indefinitely)  
Elect County Commissioners  
By Districts

**HB 12-1229** (Enacted)  
Publication Requirements Legal  
Notice in Newspaper

**HB 12-1282** (Enacted)  
State Geological Survey Review of  
Subdivision Plan

**HB 12-1329** (Enacted)  
County Treasurer Becoming  
Public Trustee

## Emergency Management / Public Safety

**HB 12-1094** (Enacted)  
Parking In Front Of Fire Hydrant  
Penalty

**HB 12-1224** (Enacted)  
Creation Of A Consolidated  
Communications System

**HB 12-1283** (Enacted)  
Consolidate Homeland Security  
Functions Under

**HB 12-1285** (Enacted)  
Intergovernmental Coop Wildland  
Fire Mitigation

**HB 12-1352** (Enacted)  
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## Local Governance/Special Districts

**SB 12-026** (Enacted)  
Agency Rules With State Mandates  
On A Local Government

**SB 12-101** (Deemed Lost)  
Authority of a Local Improvement  
District

**HB 12-1117** (Enacted)  
Local Gov Allow Charitable Giving  
From Motorists

**HB 12-1157** (Postponed Indefinitely)  
Special District Org Petition  
Procedures

**HB 12-1239** (Enacted)  
Special District Approval  
Requirements

## Local Impacts of Oil and Gas Development

**SB 12-031** (Enacted)  
Federal Mineral Lease Districts

**SB 12-063** (Postponed Indefinitely)  
Severance Tax Revenues For Rural  
Institutions Of Higher Ed

**SB 12-088** (Postponed Indefinitely)  
Preempt Local Regulation Of Oil &  
Gas Operations

**HB 12-1277** (Postponed Indefinitely)  
Local Control Oil Gas Regulation

**HB 12-1356** (Deemed Lost)  
No Severance Money For Local  
Governments That Impact Oil &  
Gas

## Local Retirement Plans / Fire and Police Pensions

**SB 12-149** (Enacted)  
Allow Local Gov Retirement Plan  
Modifications

**HB 12-1018** (Enacted)  
FPPA Social Security Pension  
Modifications

**HB 12-1031** (Enacted)  
FPPA Board Authority To Amend  
Plans

**HB 12-1077** (Enacted)  
FPPA Investment Confidentiality  
Revisions

## LOCAL GOVERNMENT (Cont.)

### Local Taxes / Tax Revenues

**SB 12-052** (*Postponed Indefinitely*)  
*Local and Statewide Assessed  
Property Tax*

**SB 12-087** (*Deemed Lost*)  
*Accrual Of Interest On Property  
Tax Refunds*

**HB 12-1029** (*Enacted*)  
*Economic Stimulus Personal  
Property Tax Exemption*

### Property and Local Land Use

**HB 12-1057** (*Postponed Indefinitely*)  
*Homeowner's Insurance Additional  
Protections*

**HB 12-1105** (*Enacted*)  
*Wind Energy Property Rights*

**HB 12-1164** (*Postponed Indefinitely*)  
*Require Disclosure Severed Mineral  
Estate*

**HB 12-1282** (*Enacted*)  
*State Geological Survey Review of  
Subdivision Plan*

The General Assembly considered several bills concerning local government during the 2012 legislative session. Specifically, the legislation addressed local building codes, county governance, emergency management and public safety, local governance and special districts, the local impacts of oil and gas development, local retirement plans, fire and police pensions, local taxes and revenue, and property and local land use.

### Building Codes

The General Assembly considered and rejected four bills related to the local building codes in the 2012 session: one related to residential sprinkler systems, one related to interior designers, one related to lumber from lodgepole pine and Engelmann spruce, and one related to plumbing and electrical inspections in schools.

**Residential sprinkler systems.** Local governments commonly adopt various uniform codes with regard to building permits and construction standards. The 2009 International Residential Code (2009 IRC) requires all new residential one- and two-family dwellings and townhouses to include an automatic fire sprinkler system. Despite this requirement in the 2009 IRC or any similar codes, **Senate Bill 12-081**, which was postponed indefinitely, would have prohibited any county or municipality from requiring the installation of sprinklers in single-family residences.

**Interior designers.** Under current law, county and municipal building departments must review interior design construction documents and specifications submitted by qualified interior designers as part of an application for a building permit. **Senate Bill 12-120**, which was postponed indefinitely, would have clarified the language of existing statutes in order to facilitate a better understanding in the permitting process of what documents interior designers may or may not file with a local building department.

**Lumber.** **House Bill 12-1004**, which was postponed indefinitely, would have required local county and municipal building codes to allow lumber milled from lodgepole pine or Engelmann spruce trees, a species often affected by beetle kill, with at least a "stud" grading, for the framing of

buildings. However, no example of a local government rejecting either lodgepole pine or Engelmann spruce trees that met federal grading standards could be found.

***School inspections.*** Under current law, plumbing and electrical inspections in public schools must be conducted by state inspectors employed by the Department of Regulatory Agencies. These inspections are required for any instance of new construction, remodeling, or repair to a school's plumbing or electrical systems. **House Bill 12-1319**, which was postponed indefinitely, would have authorized local government building departments to perform these inspections so long as the inspections were in compliance with state standards. School districts would have maintained the option to be inspected by either a state inspector or a local inspector.

## County Governance

The General Assembly considered four bills addressing county governance during the 2012 legislative session. Three bills — one concerning legal newspapers, one concerning subdivision surveys, and one concerning public trustees — were enacted, while a fourth bill, concerning the election of county commissioners, was postponed indefinitely.

***Legal newspapers.*** Current law requires that legal notices and advertisements be published in a legal newspaper, which is any newspaper with U.S. periodicals mailing privileges that is printed once a week or more. In circumstances where a county or its adjoining county has no legal newspaper, **House Bill 12-1229** allows a publication which maintains an office in the county to gather news, sells advertising, has a general circulation within the county and conducts the general business of a newspaper publication to publish legal notices or advertisements.

***Subdivision surveys.*** Under current law, county governments that receive a proposed subdivision plan must refer the plan to the Colorado Geological Survey (CGS) in the Department of Natural Resources for a geologic evaluation as part of the review process. **House Bill 12-1282** authorizes the CGS to exempt a plan from the referral requirement at the written request of a board of county commissioners of the county where the proposed subdivision is located.

***Public trustees.*** The office of the public trustee acts as a neutral intermediary between lenders and borrowers. Public trustees conduct certain foreclosure sales and auctions, and process releases of deeds of trust. In most counties in the state, the county treasurer serves as the public trustee. However, in the 11 Colorado counties with a first or second class county designation, the public trustee is appointed by the Governor. In these 11 counties, **House Bill 12-1329** requires the board of county commissioners to include the budget of the office of the public trustee — with the public trustees' recommendations — in the annual budget for the operation of the county government. Additionally, appointed public trustees are now subject to the state "Procurement Code" for any purchase of \$20,000 or more, and for any multiple-year purchase agreement, with specified exceptions. Finally, beginning January 1, 2013, an annual audit is required of the official financial activities of all appointed public trustees.

***Election of county commissioners.*** Under current law, counties with a population of less than 70,000 elect three county commissioners each representing a geographic district of approximately one-third of the county's population. All electors in the county vote for a candidate in each of the three district elections. The way in which a counties commissioners are elected may also be changed by initiative or referendum under current law. **House Bill 12-1159**, which was

postponed indefinitely, would have allowed voters in a county with a population of less than 70,000 to change the method of election so that each commissioner is elected exclusively by the voters residing within that district.

## **Emergency Management / Public Safety**

The General Assembly considered several bills related to emergency management and public safety during the 2012 session. Five bills were adopted, which addressed parking in front of fire hydrants, the Statewide Digital Trunked Radio System, the consolidation of state emergency management entities, wildfire preparedness, and the Lower North Fork Wildfire.

***Parking in front of fire hydrants.*** Under current law, the minimum penalty for parking in front of a fire hydrant in an unincorporated area of a county is \$15. **House Bill 12-1094** allows counties to increase the penalty up to \$50.

***Communication and emergency management.*** In the early 1990s, the state implemented a project to replace the wireless radio communications systems operated by state and local governmental agencies. Interoperable radio communications are considered a critical technology for search and rescue, emergency response, disaster management, and other public safety functions, allowing personnel from multiple agencies to rapidly share information and coordinate efforts. This seven phase project was planned — through partnerships with local, municipal, county, tribal, state, and federal governmental agencies — to make a communications system that would be available to all governmental agencies as well as all types of first responders ranging from police, fire, emergency medical services, public works, schools, hospitals, utilities, and transit employees as either their primary radio system or for interoperability between agencies. This radio system was named the Colorado Statewide Digital Trunked Radio System (DTRS).

In 1998, the Department of Personnel & Administration's (DPA) Division of Information Technologies began implementing the first phases of DTRS. Five of the project phases had been completed between 1998 and 2008 when the General Assembly adopted Senate Bill 08-155, which transferred the division from DPA to the Governor's Office of Information Technology (OIT) on July 1, 2008.

**House Bill 12-1224** establishes the Consolidated Communications Systems Authority (CCSA), a statutory public entity representing the interests of various members that use the DTRS as a primary means of public safety communication. Members of the CCSA include local governments, law enforcement agencies, school districts, state and federal agencies, and other entities authorized to use public safety radio communications. The CCSA is governed by a 19-member board, with 12 board members from various local government interests, 1 board member selected by tribal nations in the state, and 6 board members that are the chief executive or designee from the following 6 state agencies:

- the Governor's Office of Information Technology (OIT);
- the Colorado State Patrol (CSP);
- the Department of Corrections (DOC);
- the Department of Transportation (CDOT);
- the Department of Natural Resources (DNR); and
- the Department of Local Affairs (DOLA).

The purpose of the CCSA is to advise the Governor and the General Assembly on the development, maintenance, upgrade, and operation of the system. The CCSA is also required to present an annual report to the Joint Budget Committee in writing, no later than October 15, 2012, that includes the operational and capital infrastructure needs and potential funding options for the system.

***Consolidation of state emergency management entities.*** On October 18, 2011, the Governor signed Executive Order D 2011-030, which consolidated all staff, federal funding, and resources within the Governor's Office of Homeland Security under the Department of Public Safety (DPS). **House Bill 12-1283** codifies Executive Order D 2011-030 into state law for the consolidation of Colorado's homeland security functions, personnel, and resources, into a new Division of Homeland Security and Emergency Management (DHSEM) within DPS. The new division will include the newly renamed Office of Prevention and Security, the Office of Preparedness, which is responsible for creating and implementing a state preparedness goal and system, and the emergency management functions transferred by the Department of Local Affairs.

The bill also created a new, 21-member Homeland Security and All-Hazards Senior Advisory Committee with representation from a variety of state and local agencies to guide the division's efforts, provide advice, and review homeland security grant applications. The committee is repealed on September 1, 2021, following a sunset review by the Department of Regulatory Agencies.

Lastly, the bill reestablishes the Office of Fire Safety as the Division of Fire Safety within DPS, which transfers the wildfire-related powers and duties of the State Forester within Colorado State University into the new division. DPS is authorized to accept and expend gifts, grants, and donations to fund emergency responses to wildfires from the existing Emergency Fire Fund. The bill also added two members to the Fire Service Training and Certification Advisory Board, restoring it to its original composition.

***Local agreements for wildfire preparedness.*** In 2009, the General Assembly enacted statutory provisions requiring each county or municipality that owns any land inside the boundaries of another county containing at least 50 percent forest land or land that constitutes a wildland area to enter into an intergovernmental agreement (IGA) by July 1, 2012. **House Bill 12-1285** requires a municipality that owns land inside a county for utility purposes to enter into an intergovernmental agreement (IGA) by July 1, 2012. The bill also provides an alternative for a municipality to enter into an IGA with the state forester, to mitigate forest land or wildland fires affecting contiguous areas of municipal property located in another county. The act also clarifies that municipal property used for utility purposes is reasonably related to providing electric, natural gas, water, wastewater, and telecommunication services.

***Lower North Fork Wildfire Commission.*** On March 22, 2012, state officials coordinated a prescribed burn on publicly-owned land in rural Jefferson County. Based on a report issued by the U.S. Forest Service, embers from that prescribed burn are believed to have ignited the Lower North Fork Wildfire in the same area on March 26, 2012. At least 1,400 acres of land and improvements were directly affected by the wildfire. Damage from the wildfire is estimated to include three fatalities, and 23 residences destroyed or substantially damaged, with \$11.3 million in property damage.

As a result of the Lower North Fork Wildfire, the General Assembly passed **House Bill 12-1352**, which created the five-member Lower North Fork Wildfire Commission, comprised of two senators, two representatives, and the executive director of DPS. The commission is charged with investigating the causes of the 2012 Lower North Fork Wildfire and recommending legislative or other action that would prevent a similar occurrence. Specifically, the commission must meet to organize, investigate the causes and impacts of the wildfire, hold at least one public hearing during the 2012 interim, and prepare a report for the General Assembly on any findings, policy recommendations, or compensatory recommendations.

## **Local Governance / Special Districts**

The General Assembly considered several bills related to local governance and special districts in the 2012 session. Two bills related to local governance were enacted, one related to unfunded state mandates and one related to an exception in the anti-solicitation ordinance. Three bills related to special districts were considered: one related to special district service approval was enacted, one related to local improvement districts was deemed lost in the House, and one related to special district petition procedures was postponed indefinitely.

***Unfunded state mandates.*** With certain exceptions, **Senate Bill 12-026** prohibits the General Assembly or any state agency from promulgating a rule that creates a state mandate on a local government unless the state provides additional moneys to reimburse the local government for the additional costs. The bill stems from Executive Order D 2011-005 - *Establishing a Policy to Enhance the Relationship between State and Local Government*, which was signed by Governor Hickenlooper on January 11, 2011. It places the major requirements of the Executive Order into statute and provides additional direction for its implementation. Exceptions to the prohibition are listed in Section 29-1-304.5, C.R.S., and include:

- those required by federal law;
- the requirement of a final state or federal court order;
- financing of the state public school system;
- an order from the State Board of Education relating to the modification of statutory or regulatory responsibilities of school districts pertaining to charter schools;
- state law enacted prior to the 2012 legislative session;
- and actions undertaken at the option of a local government.

***Charitable giving from motorists.*** **House Bill 12-1117** allows local governments to make an exception to the anti-solicitation ordinance and grant permission to any charitable organization to solicit donations on public roadways up to five times per year, as long as the area of solicitation is wholly within that local government's jurisdiction. While a similar bill, Senate Bill 11-270, which was postponed indefinitely in the 2011 session, would have mandated that local governments permit firefighters to conduct "Fill-the-Boot" campaigns for the Muscular Dystrophy Association, the enacted version allows local governments to make the exception optional and includes all charitable organizations.

***Special district services.*** **House Bill 12-1239** restricts a special district from providing domestic water or sanitary sewer service directly to residents and property owners in unincorporated areas of a county without approval of the service plan from the board of county commissioners. Under the new law, the board of county commissioners must review a special district's planned

service expansion and may require a public hearing prior to approving the planned special district action. In addition, property owners can request an exclusion from the proposed service area which the board must act upon before taking final action. Exceptions to county approval requirements for a special district service area expansion include when a special district:

- provides domestic water or sanitary sewer service only to private property owners pursuant to written agreement between the parties;
- provides domestic or sanitary sewer service within the boundaries of another governmental entity, including a city, a municipality, or another special district; or
- provides storm drainage or storm sewer services or facilities within the county.

**Local improvement districts.** **Senate Bill 12-101**, which was lost in the House, would have allowed local improvement districts (LIDs), which are created by counties to fund infrastructure and other improvements for a specific geographic district, to include noncontiguous territory in unincorporated areas of the county in which the LID resides. The bill would have also restated in statute that LIDs are authorized to use sales tax revenue to conduct public events and would have established a procedure for property owners to petition the county government for inclusion in, or exclusion from, an LID.

**Petition procedures.** Under current law, if a service plan for a proposed special district is approved by a board of county commissioners, any interested party who appeared and objected to the plan must be given notice and have the right to appear at a court hearing on the petition to organize the district. **House Bill 12-1157**, which was postponed indefinitely, would have required the objecting party to be either a taxpayer of the proposed special district or an eligible elector of the proposed district in order to be given notice and to have the right to appear at the court hearing. The bill would have also allowed the notice of court hearing to be sent by certified mail rather than by registered mail.

## **Local Impacts of Oil and Gas Development**

The General Assembly considered several bills related to the local impacts of oil and gas development. One bill was enacted to maximize the amount of federal funds received by local governments. Four other bills, concerning the distribution of oil and gas revenues and local regulations of oil and gas development, were postponed indefinitely.

**Oil and gas revenue distributed to local governments.** The Colorado state severance tax recaptures a portion of the state's mineral endowment that is lost due to the extraction of nonrenewable resources. Severance tax revenue is divided evenly between the Department of Natural Resources (DNR) and the Department of Local Affairs (DOLA). DNR uses the money for water projects, other natural resources-related programs, energy assistance for low-income households, and agriculture-related programs. DOLA's portion is distributed to local governments to help mitigate the impact of the energy industry in their areas. The state also receives revenue that the federal government collects when individuals or companies lease federal lands for mineral development. This revenue is called federal mineral lease revenue (FML). FML revenue is allocated to a variety of sources: to help fund public education, to local governments and school districts, to DOLA for grants to local governments, to the Colorado Water Conservation Board Construction Fund for water projects, to fund higher education construction and maintenance projects, and to a permanent savings fund.

Payments in Lieu of Taxes (PILT payments) are federal payments made from the Department of the Interior (DOI) to local governments that help offset losses to a local government property tax base from federal lands within a county. PILT payments to counties can be used to fund services such as firefighting, police protection, and public school and road construction. When the PILT payment program was established, it was structured so any Federal Mineral Lease (FML) revenues received by counties would reduce the county's PILT payments.

The federal Government Accountability Office believed that the only way for counties to avoid this offset would be if the state or county forwarded the FML distributions to a politically and financially independent school/special service district. House Bill 11-1218 authorized the creation of FML districts within counties to establish independent special districts for this purpose. However, the preliminary interpretation by DOI is that further clarification of an FML district's jurisdictional independence is needed to avoid the offset.

**Senate Bill 12-031** modifies state law to meet the DOI requirements by allowing FML districts to establish jurisdictional independence in order for counties to receive more PILT payments. Specifically, the bill alters the board membership and powers of a district in order to be independent from the county that created it, and allows districts to reserve annual FML payments to fund larger scale projects. This statutory clarification is intended to meet DOI requirements, but this result of the bill is conditional on the DOI agreeing that their independence criteria has been met.

***Severance taxes for local entities.*** **Senate Bill 12-063**, which was postponed indefinitely, would have established a \$100 million cap on future allocations of severance tax revenue to the Operational Account of the Severance Tax Trust, beginning in FY 2012-13. Any revenue collected above the cap would have been made available to local governments adversely impacted by the development, processing, or energy conversion of minerals subject to taxation.

According to the bill, an impacted local government would have been required to make grant requests to the Joint House and Senate Local Government Committee, which would have been charged with prioritizing funding requests by February 15th of each year. Any revenue remaining after this determination would have been credited to the Rural Education Cash Fund and annually appropriated to rural institutions of higher education, in proportion to appropriations made by the General Assembly in FY 2011-12. Each rural institution would have been required to set aside 50 percent of its annual appropriation in a separate trust account to build an endowment fund.

***Regulation of oil and gas development by a local government.*** The Oil and Gas Conservation Act gives the Colorado Oil and Gas Conservation Commission (COGCC) broad authority to regulate oil and gas development in Colorado.<sup>1</sup> In general, statutory counties and municipalities are prohibited from enacting ordinances that conflict with the act. Courts have also determined that home rule municipalities are limited in their ability to enact ordinances pertaining to oil and gas development. For example, a ban on oil and gas drilling enacted by a home rule city was deemed illegal, because it conflicted with the state's interest in promoting the efficient and fair development, production, and utilization of oil and gas resources. However, the courts also recognized that the city has an interest in land use control within its border that may not be completely preempted by the Oil and Gas Conservation Act. The General Assembly considered several bills that addressed state and local control over oil and gas development in Colorado.

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<sup>1</sup> Section 34-60-105, C.R.S.

**Senate Bill 12-088**, which was postponed indefinitely, would have specified that the regulation of oil and gas operations is a matter of statewide concern, and provided the COGCC with exclusive jurisdiction to regulate oil and gas operations. According to the bill, any local regulation of oil and gas operations would have been preempted by this change to state law.

**House Bill 12-1277**, which was postponed indefinitely, would have clarified that oil and gas operators are subject to local government zoning, land use authority, and regulations as well as the COGCC. Specifically, the bill would have subjected operators to the same local government control that is established for other mineral extractions under the Colorado Mined Land Reclamation Act. However, if local regulations conflict with the COGCC regulations, oil and gas operators would have been able to contend that state regulations would preempt local land use authority.

**House Bill 12-1356**, which was lost in the House, would have prohibited local governments from receiving any grants or direct distributions from the Local Government Severance Tax Fund if a local government restricted or delayed the ability of an oil and gas producer to extract oil and gas. The moneys that would have been distributed to the local government would be redistributed on a pro rata basis to all other eligible local governments.

## **Local Retirement Plans / Fire and Police Pensions**

Firefighter and police officer pensions are governed by state and federal law, but funded primarily through contributions by employees and local government employers. The General Assembly passed four bills during the 2012 legislative session concerning retirement plans for local government employees. One bill addressed the authority for boards that oversee a local retirement plan or system to in order to ensure a plan's sustainability. Three other measures were recommended by the Police Officers' and Firefighters' Pension Reform Commission during the 2011 interim.

**Local retirement plans.** **Senate Bill 12-149** authorizes the board of a defined benefit plan or system created by a local government to modify the benefits and the age and service requirements for the plan if the board determines the modification are necessary to maintain the plan's solvency. Any modifications to a plan cannot adversely affect any vested benefits already accrued by members of defined benefit plans, including members who are retired or eligible to retire as of the effective date of the modifications.

**Fire and police pensions bills.** The pensions of local firefighters and police officers are governed by state and federal law, but their funding also comes primarily from contributions by employees and local government employers. While some plans are administered locally, the state currently provides assistance to eight plans under the management of the Fire and Police Pension Association (FPPA), as a result from past legislation enacted to reform local pension plans for police officers and firefighters hired prior to April 8, 1978 (old hires). The purpose of the reform was to ensure that local pension plans were actuarially sound, and included state financial assistance conditioned on increases in both employer and employee contributions. During the 2012 legislative session, the General Assembly adopted three bills to:

- make the administration of the pension plans more efficient and less costly;
- align provisions in different FPPA pension plans with more current policies in federal pension plans; and
- address the confidentiality of certain investor information.

***Social Security Supplemental Plans.*** Currently, a small number of municipalities and county sheriffs' departments participate in Social Security. The FPPA also administers a Social Security Supplemental Plan under its statewide plan and under its Statewide Death and Disability Plan. **House Bill 12-1018** limits any Social Security employer to electing affiliation with the FPPA for coverage under the Statewide Defined Benefit Plan. However, any Social Security employer is allowed to elect coverage under the Statewide Death and Disability Plan if the employer files a resolution with the FPPA board to that effect from the governing body of the employer.

***Authority of the board to make amendments to plans for the administration of benefits.*** Currently, applying a uniform change to all retirement plans administered by the FPPA could require amending each plan independently according to certain rules, plan documents, or state statutes. In order to comply with state and federal law, **House Bill 12-1031** authorizes the FPPA board to modify or amend the Statewide Defined Benefit Plan, a plan document, or rules of a plan within the benefit system. Specifically, the bill enables the FPPA board to apply certain administrative changes to numerous statewide plans that the board oversees to allow for more consistent and uniform administration of the plans.

***Investment confidentiality.*** House Bill 05-1002 revised state law governing certain investment terms and exempted certain investment information provided to the FPPA for investment purposes from the disclosure requirements of the Colorado Open Public Records Act. **House Bill 12-1077** amends the provisions guiding investment confidentiality of the FPPA by modifying the definition of "investment information" and replacing the term "portfolio company" with "investment vehicle." According to the FPPA, this statutory change is necessary to protect proprietary information of certain companies contained within investment vehicles utilized by the FPPA.

## **Local Taxes / Tax Revenues**

The General Assembly considered several bills related to local taxes and tax revenues in the 2012 session. One bill related to the cap on business incentive agreements was enacted, one bill related to the rate of assessed property tax was postponed indefinitely, and one bill related to interest accrued on property tax refunds was lost in the House.

***Business incentive agreement cap.*** **House Bill 12-1029** changes the cap for statutory business incentive agreements for counties, municipalities, and special districts. Under current law, each of these local government entities has the authority to establish incentive payments or tax credits of up to 50 percent of a taxpayer's business personal property liability. This bill increases that limit to 100 percent of the liability.

***Assessed property tax.*** Under current law, the property tax exemption for business personal property on a single personal property schedule is \$5,500 for property tax years 2011 and 2012, \$7,000 for property tax years 2013 and 2014, and an inflation-adjusted amount every two years thereafter. **Senate Bill 12-052**, which was postponed indefinitely, would have increased the exemption for property tax years 2013 and 2014 to \$14,000, which in turn would have increased the future inflation-adjusted amount of the exemption. Additionally, capping the amount of actual value that would be included in a utility's property tax liability would have required the division to:

- track the value cap and compare it to current value for each of the 600 utility accounts;

- establish a system for tracking and monitoring new public utilities and mergers and acquisitions; and
- track changes in the value cap resulting from appeals.

***Interest on property tax refunds.*** Under current law, property taxes that are erroneously collected must be refunded to the taxpayer. The delinquent interest, which accrues from the date of tax payment, is also owed to the taxpayer in these instances. **Senate Bill 12-087**, which was lost in the House, would have set the start date for interest accrual from the date a complete abatement petition is filed with the board of county commissioners or the date the taxes are paid, whichever is later, in order to lessen the amount of time that interest accrues and lower county expenditures.

## Property and Local Land Use

The General Assembly considered several bills concerning property and local land use during the 2012 legislative session. Two bills — one concerning wind energy property rights, and one concerning the review of subdivision plans by the State Geological Survey — were enacted. Two other bills — one concerning additional protections for homeowners, and one concerning mineral rights — were postponed indefinitely.

***Wind energy rights.*** 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 12-1105** establishes that wind energy rights are not severable from the surface estate to real property in Colorado. According to the bill, the establishment of wind energy rights is accomplished through a wind energy agreement in the form of a lease, license, easement, or other grant or reservation, but must be indicated in the property records filed with the county clerk and recorder in the county where the land is located. The bill also defines the procedure for release from a wind energy agreement that has terminated and for reversion of wind energy rights that have been undeveloped for a continuous period of ten years. Lastly, the bill clarifies that equipment for wind energy development is not subject to taxation until wind energy production commences.

***Subdivision surveys.*** Under current law, county governments that receive a proposed subdivision plan must refer the plan to the Colorado Geological Survey (CGS) in the Department of Natural Resources for a geologic evaluation as part of the review process. **House Bill 12-1282** authorizes the CGS to exempt a plan from the referral requirement at the written request of a board of county commissioners of the county where the proposed subdivision is located.

***Homeowners' insurance.*** Depending on individual policies, homeowners' insurance does not always cover the entire value of a home or the contents within the home when the structure is severely damaged or destroyed. **House Bill 12-1057**, which was postponed indefinitely, would have required the Commissioner of Insurance in the Department of Regulatory Agencies to adopt rules related to homeowners' insurance. These rules would have addressed the criteria for estimating replacement cost of a structure, standards for such replacement, and the process for documenting both the replacement value of the structure as well as the contents of a home.

***Mineral rights and estate owners.*** Beginning in January 1, 2013, **House Bill 12-1164**, which was postponed indefinitely, would have required real estate listing contracts, contracts of sale, and a sellers' property disclosures to provide notice regarding any severed mineral rights from the

property. Specifically, the notice would have indicated whether the mineral estate had been severed from the surface estate, and a surface owner's right of first refusal to purchase the mineral estate when the taxes have not been paid. The bill also specifies that mineral leases executed on or after the bill's effective date are void and unenforceable, except between the parties to the lease, unless the lease has been recorded in the county clerk and recorder's office in the county where the real property is situated.