



Colorado State Fire Chiefs' Association

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MEMORANDUM

To: CSFCA Legislative Committee & Board of Directors
From: Paul L. Cooke, Executive Director
Subject: 2010 General Assembly Convenes; Several Bills of Interest Introduced
Date: January 16, 2010

The Second Regular Session of the Sixty-seventh General Assembly of Colorado convened on Wednesday, January 13, 2010. The Legislature will meet for a constitutionally mandated limit of 120 days, with *adjournment sine die* occurring no later than midnight on Wednesday, May 12, 2010.

On Wednesday, the majority and minority legislative leaders delivered their opening-day addresses, setting the tone for the Senate and House of Representatives.

In his first opening remarks as Senate President, Sen. Brandon Shaffer called for bipartisan efforts, to listen and to compromise. He quoted Franklin Roosevelt in saying, "Our greatest primary task is to put people to work."

President Shaffer said legislators will consider bills allowing job retraining accounts for employees offering tax benefits for education and retraining, health care loan programs for rural communities, a new renewable energy standard and a plan to fix the struggling state employee pension fund.

House Speaker Terrance Carroll said in his speech that the Legislature must pass a "bold initiative" to increase from 20 to 30 percent the amount of power that utility companies will be required to generate from "green" sources by 2020. "The linchpin of our economy is small business. And nothing is doing more to drive the creation of small business than a New Energy Economy," Speaker Carroll said.

Senate Minority Leader Josh Penry said state government was "inexplicably unprepared" for an economic crisis, with no rainy day fund, no savings strategy and no plans to deal with it. He warned against plans to suspend or eliminate \$132 million in tax exemptions, including some \$90 million that would affect businesses directly.

He said, "Any moves that increase the cost of business will lead to job losses rather than job creation."

House Minority Leader Mike May said the challenges facing lawmakers this year "are nothing compared to what some families and businesses have experienced during this historic recession. We cannot ever lose sight of the fact that every decision we make has a real-world impact," he said.

Governors State of the State Address

This morning (Thursday), Governor Bill Ritter delivered his fourth and final State of the State Address, calling on lawmakers "to set aside the weaker impulses of partisanship" and remain focused on job creation, economic recovery and keeping the state budget balanced.

"While this has been a tough time, and while there will be setbacks, we are making progress," Gov. Ritter said. "Colorado has one of the best business climates and economic outlooks in the country, and if we stay disciplined and determined, we will get our economy back on solid footing. I know we can do this, because we've been doing it."

The Governor outlined his top priorities for the legislative session, including:

- Keeping the state budget balanced, saving money and making government more effective through proposals such as the Medicaid Efficiency Act.
- Creating jobs and growing Colorado's New Energy Economy through proposals such as an increase to the state's renewable energy standard, boosting it from the current 20 percent by 2020 requirement to 30 percent by 2020, and increasing demand for Colorado's cleaner-burning natural gas.
- Making the Colorado State Park system the first in the country to use zero net energy.
- Modernizing teacher and student assessments, including replacing the CSAP test with a new assessment tool by 2011 or 2012.
- Strengthening public safety through legislation to regulate and rein in abuses in Colorado's voter-approved medical marijuana program, toughen penalties for repeat drunk-driving offenses, and improve the state's child-protection system.
- Shoring up the state's Public Employee Retirement Association pension fund.

Gov. Ritter first unveiled his legislative priorities for 2010 at a pre-session press conference with Senate President Brandon Shaffer and House Speaker Terrance Carroll on Tuesday, January 12th. These legislative priorities can be found at: <http://bit.ly/8emAzV>.

The full text of the 2010 State of the State address may be downloaded from: <http://xrl.us/csfca014110b>.

Bills of Interest Introduced

Several bills of interest were introduced on the first day of the session, and have been posted to this page at: <http://www.colofirechiefs.org/legislative.htm> and are listed as follows:

House Bills

Bill Number: HB10-1016 **Prime Sponsors:** Rep. Waller, Sen. Tochtrop
Bill Title: **Concerning the Extension of the Term of the Retired Member of the Board of Directors of the FPPA.**
Link to Bill: http://www.colofirechiefs.org/10Legislature/1016_01.pdf
Summary: **Police Officers' and Firefighters' Pension Reform Commission.** Extends the term of the retired firefighter or police officer serving as a member of the board of directors of the FPPA from 4 years to 6 years.
Position: Monitor
Status: 01/13/2010 Introduced In House - Assigned to Business Affairs and Labor

Comments

The FPPA Board feels that an extended term for the rotating membership would be of more value to FPPA because of the learning curve required for Board participation.

Bill Number: HB10-1018 **Prime Sponsors:** Rep. Looper and Primavera, Sen. Gibbs
Bill Title: **Concerning Increased Authority to Regulate Waste Tires.**
Link to Bill: http://www.colofirechiefs.org/10Legislature/1018_01.pdf
Summary: **Transportation Legislation Review Committee.** Current law gives several departments authority over fees collected upon the sale of new motor vehicle tires to deal with waste tires. The bill consolidates all such authority in the department of public health and environment and adds requirements for fire prevention planning, registration, decals, and manifests for certain waste tire haulers and waste tire facilities. [More]
Position: Conceptual Support
Status: 01/13/2010 Introduced In House - Assigned to Transportation & Energy

Comments

The Waste Tire Stakeholders group accepted all of the amendments proposed by the CSFCA to the draft bill, and they are included in the introduced bill.

The Colorado Association for Recycling (CAFR) has worked with Rep. Primavera on an amendment. According to CAFR, some of this amendment is just clean up of existing language. The allocation portion of the amendment is an attempt on the part of CAFR to set out a separate fund within the waste tire fund, specifically for monofills. Their feeling is that once monofills get cracking and start using tires, they could easily take all the rest of the money in the fund and then some. Therefore, they thought it was important that they have their own fund, and not use other funds. In order to get some money to the monofills, they changed the proportions in the bill to make some money for them. They understand that some may not like the specific proportions in their amendment, but they wanted a starting place from which to discuss.

Proposed Amendment: http://www.colofirechiefs.org/10Legislature/HB1018_L_001.pdf.

A waste tire stakeholders meeting has been scheduled for January 22, 2010 from 12:00-2:00 pm in HCR0109.

Bill Number: HB10-1054 **Prime Sponsors:** Rep. King S., Sen. Carroll M.
Bill Title: **Concerning Presenting School Safety Information at Institutions of Higher Education.**
Link to Bill: http://www.colofirechiefs.org/10Legislature/1054_01.pdf
Summary: The bill requires institutions of higher education to conduct a 45-minute school safety presentation during new student orientation. The institution of higher education may determine the medium for presenting the information to new students, so long as the presentation includes specified information, such as information concerning communication with school safety personnel and various emergency safety protocols for school buildings. Additionally, the institution of higher education must make the same information available annually to returning students, faculty, and staff. Within 30 days after conducting a school safety presentation, an institution of higher education shall report to the department of higher education the number of students who attended the school safety presentation. [More]
Position: Pending – Legislative Committee members with higher ed institutions were asked to review this bill and make a recommendation.
Status: 01/13/2010 Introduced In House - Assigned to Education
Comments

Bill Number: HB10-1095 **Prime Sponsors:** Rep. Gerou
Bill Title: **Concerning a Limitation on the Authority of a Fire Protection District to Charge Fees for Providing Certain Rescue Services to Those Services Provided at the Scene of a Motor Vehicle Accident.**
Link to Bill: http://www.colofirechiefs.org/10Legislature/1095_01.pdf
Summary: A fire protection district currently has the statutory authority to set fees for ambulance or emergency medical services and extrication, rescue, or safety services provided in furtherance of ambulance or emergency medical services. The bill specifies that the authority of the district to charge certain rescue fees is limited to services provided at the scene of a motor vehicle accident.
Position: Pending
Status: 01/13/2010 Introduced In House - Assigned to Local Government
Comments

The bill as In its current form, this bill should have no adverse impact because the language limiting fees for rescue or extrication of trapped or injured parties AT THE SCENE OF A MOTOR VEHICLE

ACCIDENT is added after the clause “includes but is not limited to”.

We have asked the Colorado Search and Rescue Board to meet with us regarding the “big picture” issue of their desire that fire protection districts (and fire departments) not bill for rescue services, except motor vehicle accidents.

Bill Number: HB10-1107 **Prime Sponsors:** Rep. Fischer, Sen. Carroll M.
Bill Title: **Concerning Limitations on the Inclusion of Agricultural Lands Within Urban Renewal Areas.**
Link to Bill: http://www.colofirechiefs.org/10Legislature/1107_01.pdf
Summary: Section 3 of the bill prohibits any area that has been designated as an urban renewal area from containing any agricultural land unless:

- The agricultural land is a brownfield site as designated by 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 consists of urban-level development that 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 a period of not less than 3 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 the effective date of the bill. [More]

Position: Pending
Status: 01/15/2010 Introduced In House - Assigned to Agriculture, Livestock, & Natural Resources

Comments

[Urban Renewal Authorities and Tax Increment Financing: Impacts on Fire Protection Districts](#)

Bill Number: HB10-1123 **Prime Sponsors:** Rep. Sonnenberg, Sen. Renfroe
Bill Title: **Concerning Controlled Agricultural Burns in Arson Cases.**
Link to Bill: http://www.colofirechiefs.org/10Legislature/1123_01.pdf
Summary: The bill states that it is not an arson offense if the person started a fire as a controlled agricultural burn in a reasonably cautious manner and there was no personal injury as a result.
Position: Pending

Status: 01/15/2010 Introduced In House - Assigned to Judiciary

Comments

Senate Bills

Bill Number: SB 10-021 **Prime Sponsors:** Sen. Morse, Rep. Labuda

Bill Title: **Concerning a Volunteer Firefighter Pension Plan.**

Link to Bill: http://www.colofirechiefs.org/10Legislature/021_01.pdf

Summary: **Police Officers' and Firefighters' Pension Reform Commission.** Makes the following changes to the "Volunteer Firefighter Pension Act":

- 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";
- 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 a trustee of a fund; and
- Eliminates the requirement that the board of trustees of a fund deliver a copy of a report on the condition of the fund to the board of directors of its fire protection district.

Position: Passive Support (Testimony Only)

Status: **Calendared to be heard by Senate Business, Labor, & Technology Committee on Monday, January 25, 2010 at 1:30 P.M. in SCR 354.**

History:

01/13/2010 Introduced In Senate - Assigned to Business, Labor and Technology

Comments

Dino Ross of Ireland Stapleton recommended these changes to the Volunteer Firefighters Pension Act for the reasons stated:

- Amends the definition of "compensation" to exclude salary lost as a consequence of actual firefighting duties causing the absence of the volunteer firefighter from normal employment. This change is indicated as the US DOL has determined that such payments fail the threshold issue of volunteerism and would likely create an employment relationship under the FLSA.
- Amends the composition of the Pension Board to include fire department members, retired fire department members, or retired fire department members returned to active service. Current law only allows fire department members to serve in the two seats not held by the District Board of Directors and some departments no longer have active volunteers.
- Eliminates the requirement that the Pension Board of a fire protection district make an annual report to the board of directors of the district on the condition of the fund. The rationale for this

is the Board of Trustees of a Pension Fund within a Fire District is comprised of the five members of the Fire District Board. As such, the Fire District Board is as fully aware of the status of the Pension Fund as the Board of Trustees.

- Eliminates the requirement that the Pension Board hold at all times hold fixed-income obligations having a book value or cost of not less than sixty percent of the total contributions made to the trust less the amounts paid out. The rationale for this is the non-FPPA paid firefighter pension funds are governed by the prudent investor statute set forth in Article 1.1 of Title 15, C.R.S. There is no logical reason why an additional investment restriction is imposed of a non-FPPA Volunteer Pension Fund.

According to Dino Ross, Arvada Fire Chief Jon Greer is prepared to testify in support of this bill.

Bill Number: SB 10-022 **Prime Sponsors:** Sen. Morse, Rep. Riesberg and King S.

Bill Title: **Concerning a Member-Approved Increase in the Member Contribution Rate to the Statewide Defined Benefit Plan Administered by the FPPA.**

Link to Bill: http://www.colofirechiefs.org/10Legislature/022_01.pdf

Summary: **Police Officers' and Firefighters' Pension Reform Commission.** Permits the board of directors of the FPPA to increase the member contribution rate for the statewide defined benefit plan if the increase:

- Does not require an increase in the employer contribution rate or adversely affect the plan's status under federal law; and
- Is approved by a supermajority of active plan members and a majority of the employers.

Permits the board to eliminate the increase in the member contribution rate so long as the requirements for an increase are met. Makes conforming amendments to ensure that the increase in the member contribution rate does not change other requirements related to the plan.

Position: Monitor – No Adverse Impact

Status: **Calendared to be heard by Senate Business, Labor, & Technology Committee on Monday, January 25, 2010 at 1:30 P.M. in SCR 354.**

History:
01/13/2010 Introduced In Senate - Assigned to Business, Labor and Technology

Comments

Bill Number: SB 10-023 **Prime Sponsors:** Sen. Williams, Rep. Riesberg and Liston

Bill Title: Concerning the Discretion of the Board of Directors of the FPPA to Adopt Rules Regarding the Return to Work by a Member Participating in the Defined Benefit System of the Association Who Elects Retirement.

Link to Bill: http://www.colofirechiefs.org/10Legislature/023_01.pdf

Summary: **Police Officers' and Firefighters' Pension Reform Commission.** Allows the board of directors of the fire and police pension association to adopt rules, in the board's discretion, suspending the distribution of benefits to any retired member participating in the defined benefit system who, after electing a retirement, has returned to work with an employer who also participates in the defined benefit system.

Allows the board of directors to adopt rules upon findings by the board that allow a member who has elected a retirement to continue to receive retirement benefits and earn additional benefits.

Position: Monitor – No Adverse Impact

Status: **Calendared to be heard by Senate Business, Labor, & Technology Committee on Monday, January 25, 2010 at 1:30 P.M. in SCR 354.**

History:

01/13/2010 Introduced In Senate - Assigned to Business, Labor and Technology

Bill Number: SB 10-024 **Prime Sponsors:** Sen. Tochtrop, Rep. Labuda

Bill Title: Concerning the Repeal of the Authority of The Board of Directors of the FPPA to Affiliate with a Local Money Purchase Pension Plan.

Link to Bill: http://www.colofirechiefs.org/10Legislature/024_01.pdf

Summary: **Police Officers' and Firefighters' Pension Reform Commission.** Repeals the authority of the board of directors of FPPA to enter into an agreement with an employer establishing a money purchase pension plan for the purpose of having the board administer the plan and manage the investment of the moneys of the plan. Eliminates a cash fund and audit requirement related to the affiliated plan.

Position: Monitor – No Adverse Impact

Status: **Calendared to be heard by Senate Business, Labor, & Technology Committee on Monday, January 25, 2010 at 1:30 P.M. in SCR 354.**

History:

01/13/2010 Introduced In Senate - Assigned to Business, Labor and Technology

Comments

Currently there are no such affiliated local money purchase plans and FPPA does not anticipate any that will ever seek affiliation.

Colorado Prescribed Burning Act

Colorado law “declares that the use of fire is an effective and appropriate resource management tool. It further finds and declares that prescribed burning is necessary and desirable to improve the health of Colorado's forest, rangeland, and prairie ecosystems and to mitigate the fire danger in the wild-urban interface.” While state statutes support the use of prescribed burning, direction for implementation is not clear. Currently, Colorado law provides guidance for prescribed burns solely in agricultural settings.

The Colorado Prescribed Fire Council proposed the "Colorado Prescribed Burning Act" as an attempt to clarify conflicting state statutes and legislation and provide clear direction for prescribed fire on private land by establishing a state wide Prescribed Burning Act.

Bill Number: LLS NO. 10-0460 **Prime Sponsors:** Sen. Gibbs, Rep. Fischer

Bill Title: Concerning the Certification of Users of Prescribed Fire According to Standards Established by the Colorado State Forest Service.

Link to Bill: http://www.colofirechiefs.org/10Legislature/10-0460_01_REDRAFT.pdf

Summary: The bill directs the Colorado state forest service to establish training and certification standards for users of prescribed fire, including certified burner and noncertified burner designations, recommended processes for certified burners to conduct a prescribed fire, recommended organizational structures for prescribed burn operations, training prior draft standards for certified burners, and identification of preexisting fees, permit requirements, liabilities, liability exemptions, and penalties for prescribed burn personnel and landowners.

Position: Pending

Status: Bill has not been introduced.

Comments

Members of the CSFCA Wildland Fire Section BOD continue to work with the Colorado Prescribed Fire Council, Rich Homann, CSFS Fire Division Supervisor, and the Bill Sponsor (Sen. Gibbs) to address CSFCA concerns with the draft bill. Several of the concerns of expressed by the CSFCA have been addressed by the Sponsor and are reflected in the current draft.

If you have any questions, feel free to contact me or Steve Pischke, Legislative Committee Chair at spischke@aol.com.