

# Member Proposals

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## Request for CML Initiated Legislation – CML Staff

### **Housing: CML-Initiated Land Use Legislation**

Since the defeat of SB23-213, CML and CCI have been working with a wide range of stakeholders to inform a legislative solution to create more affordable housing that focuses on partnership, not preemption. Please see the two attached memos with detailed summaries of two convenings that CML hosted, along with our partners at CCI. You can also find a list of stakeholders that were invited to participate in these conversations, including the governor's office staff. Senators Barbara Kirkmeyer and Rachel Zenzinger plan to introduce legislation with significant drafting assistance from CML that aligns with CML's goals and perspectives. CML staff is seeking authorization to work on this legislation as CML-initiated legislation. **Staff recommendation: Approve CML-initiated legislation.** *Lobbyists: Heather Stauffer; Meghan MacKillop*

# Action Items

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### **Substance Abuse/Criminal Justice: Opioid Harm Reduction and Immunity for Use of Opioid Antagonist**

The Opioid and Other Substance Use Disorders Study Committee is considering a harm reduction interim bill. Among other harm reduction strategies, the bill states a law enforcement agency, a first responder, a school district, a school, and an employee or agent of a school have civil and criminal immunity when they act in good faith to furnish or administer an opiate antagonist, including an expired opiate antagonist, to an individual they believe to be suffering an opiate-related drug overdose. The bill also creates an exemption to the prohibition on possessing drug paraphernalia for possession of drug paraphernalia that a person received from an approved syringe exchange program, or a program carried out by a harm reduction organization, while participating in such a program. **Staff recommendation: Support if amended.** *Lobbyist: Meghan MacKillop*

**Policy Statement:** *The League supports limitations on the liability of municipalities and their officers and employees.*

### **Substance Abuse/Land Use: Recovery from Substance Abuse Disorders**

The Opioid and Other Substance Use Disorders Study Committee is considering a bill regarding recovery from substance abuse disorders. Among other provisions, the bill declares that recovery residences, sober living facilities, and sober homes are a residential use of land for zoning purposes. This provision is similar to statutory provisions that establish a statewide concern for group homes, also known as community residential homes. This provision is limited to a state-licensed group home with eight or fewer residents. Initially, CML staff would seek to eliminate this provision from the bill. Alternatively, CML staff would seek amendments to this provision to include the same restrictions placed on group homes, including the requirement that the recovery facility is state-licensed and limited to eight or fewer residents. **Staff recommendation: Oppose, unless amended.** *Lobbyist: Meghan MacKillop*

**Policy Statement:** *The League opposes delegation of municipal land use authority to state agencies or preemption of municipal land use controls.*

### **Housing: Construction Defect Litigation Reform**

The Home Builders Association is moving forward with construction litigation reform legislation in the 2024 legislative session, and in doing so they are considering two options. Each option would be drafted as an individual bill. The first option would create a statewide warranty standard for builders. Builders who meet this standard would be protected from claims and lawsuits related to construction defects. Several municipalities have adopted their own warranty standards, and this bill would eliminate the need for local building departments to have separate standards. A statewide standard would create more consistency for builders and would help reduce costs. The second option is a hybrid approach that would address two major issues for builders, specifically delegable duties for design and trade professionals and a right to remedy with a release of liability. Delegable duties assign responsibility for repairing alleged defects to the party responsible for the workmanship. Builders can be found negligent if they deviate from design plans prepared by licensed design professionals. The right to remedy allows the responsible party to resolve issues without resorting to litigation. Combining these concepts aims to reduce litigation, lower insurance costs, and expedite defect claim resolutions. It also helps mitigate disputes between builders, subcontractors, and design professionals. Staff would recommend that CML support either approach to reduce costs of building and increase the development of multi-family housing for ownership. **Staff recommendation: Support.** *Lobbyist: Meghan MacKillop*

**Policy Statement:** *The League supports an adequate supply of diverse housing options, regardless of income level, and continued public–and private– sector support for such an effort.*

**Taxes: Data for Simplified Sales and Use Tax Collection**

This bill initiated by Simplify Colorado and being considered through the Sales and Use Tax Simplification Task Force establishes that any vendor or retailer that relies on the information in the GIS database to determine the local taxing jurisdictions to which tax is owed and the amount of such tax is held harmless in an audit by any local taxing jurisdiction, including home rule municipalities, for any tax, charge, or fee liability that would otherwise be due solely as a result of an error or omission in the GIS database. CML would seek amendments to provide additional safeguards for municipalities. **Staff recommendation: Oppose unless amended** *Lobbyist: Heather Stauffer*

**Policy Statement:** *CML supports cooperative efforts among municipalities to standardize municipal sales and use tax practices and utilization of technology for the convenience of taxpayers, the business community, and municipalities.*

**Taxes: Local Filing Participation**

This bill being considered through the Sales and Use Tax Simplification Task Force will raise the dollar threshold for filing frequency to either monthly, quarterly, or annually through SUTS. It may also impose a uniform filing threshold for all local jurisdictions, including self-collecting home-rule municipalities. The bill may also consider establishing filing thresholds for lodging taxes, which would apply to all local jurisdictions. Finally, the bill draft may include a requirement for the remaining self-collecting home rules not on SUTS to join by a date certain. **Staff recommendation: Staff discretion to oppose.** *Lobbyist: Heather Stauffer*

**Policy Statement:** *CML supports retention of authority for all municipalities to set local tax rates and for home rule municipalities to collect their own taxes and determine their own tax bases.*

**Taxes: Improve Availability of Information**

This bill from Simplify and Expedia, being considered through the Sales and Use Tax Simplification Task Force, would require local governments to report information about sales and use taxes on building and construction materials, as well as lodging tax rates to the Department of Revenue for inclusion in the DR1002, TTR, or similar system. The bill also amends the scope of the sales and use tax simplification task force to include simplification of local lodging tax and specifically directs the task force to consider establishing a lodging tax collection system during the 2024 interim. **Staff recommendation: Oppose unless amended.** *Lobbyist: Heather Stauffer*

**Policy Statement:** *CML supports cooperative efforts among municipalities to standardize municipal sales and use tax practices and utilization of technology for the convenience of taxpayers, the business community, and municipalities.*

**Taxes: Uniform Definition and Report for Local Lodging Tax**

This bill being considered through the Sales and Use Tax Simplification Task Force, would establish a statewide standard definition for short-term rental that applies to all local governments including self-collecting home rule municipalities. CML has requested that this be done through a resolution like past standard definition projects, rather than as a mandate. This bill would also limit the information that local governments could ask for from an accommodation intermediary like Expedia as part of their tax returns to only the type of information asked for from other marketplace facilitators. This might limit the ability of a local government to require information such as tourism data, information for STR enforcement, etc. Local governments may be able to enter into separate agreements to try to obtain this information, but it is unclear how this would work. **Staff recommendation: Oppose unless amended.** *Lobbyist: Heather Stauffer*

**Policy Statement:** *CML supports cooperative efforts among municipalities to standardize municipal sales and use tax practices and utilization of technology for the convenience of taxpayers, the business community, and municipalities.*

**Taxes: Simplify/Update Local Tax Collection**

This proposal from the Department of Revenue, being proposed through the Sales and Use Tax Simplification Task Force, would harmonize existing local government statutes and create a new, uniform local sales and use tax collection statute addressing: the timing of new tax and tax change effective dates, uniform vendor fees, distribution requirements, information sharing, cost recovery, procedures for local sales tax paid erroneously to the state, limiting relief from penalties and interest for retailers who pay sales tax to the wrong local jurisdiction, and a hold harmless provision for use of the GIS system. Concerning among the list of ideas from the Department is cost recovery mechanisms for DOR in which the department would charge local governments a percentage of the cost of collection based on the number of collections/ tax filings in each respective taxing jurisdiction. The hold harmless provision may raise some of the same issues identified in the bill on Data for Simplified Sales and Use Tax Collection. **Staff recommendation: Staff discretion to oppose unless amended.** *Lobbyist: Heather Stauffer*

**Policy Statement:** *CML supports programs that allow businesses to remit state and local sales taxes to a single point while preserving home rule authority over tax rates, base, and audit authority.*

### **Transportation: Railroad Safety Requirements**

Recommended by the Transportation Legislation Review Committee (TLRC), this bill would introduce several safety requirements for railroads operating in the state. These requirements include limiting train length to 8,500 feet, monitoring trains for defects using wayside detector systems, and preventing trains from obstructing public crossings for more than 10 minutes. It also allows crew members to report safety violations and grants designated union representatives access to investigate such reports. Under the bill, the Public Utilities Commission (PUC) would be able to impose fines for safety violations and denial of access to union representatives, with guidelines to be developed by the PUC. Additionally, the bill establishes the Front Range Passenger Rail District Maintenance and Safety Fund, which consists of fines collected by the PUC. The fund will be used for safety planning, development, and maintenance of the state's passenger rail system. The bill also requires railroads to provide training to fire departments along their tracks, and, for those transporting hazardous materials, to maintain adequate insurance coverage, with minimum coverage amounts determined by the PUC.

**Staff recommendation: Support.** *Lobbyist: Meghan MacKillop.*

**Policy Statement:** *Supports increased dialogue and cooperation among federal, state and local officials and the development of cooperative intergovernmental solutions to common problems.*

### **Transportation: Vulnerable Road User Enterprise**

Recommended by the Transportation Legislation Review Committee (TLRC), this bill would create the Vulnerable Road User Protection Enterprise in the Department of Transportation (CDOT). Beginning in 2025, the enterprise will implement a Vulnerable Road User Protection Fee in the state's 12 most populous counties. The fee would be imposed in tiered amounts based on weight for passenger cars and light trucks. The fee will fund transportation system infrastructure improvements that seek to prevent vehicular collisions with vulnerable road users, such as pedestrians or bicyclists. Beginning July 1, 2025, the enterprise would be authorized to provide grants for eligible projects within the following parameters:

- The enterprise must seek to award grants to each county in amounts that are reasonably proportional to the amount of fee revenue collected from each county.
- Grants must be at least \$250,000 and no more than \$2.5 million.
- The enterprise cannot require a recipient of a grant that is less than \$1 million to provide matching money for the grant.
- For grants that are at least \$1 million, the enterprise must require the grant recipient to provide matching money of 20 percent of the grant amount.

- Grants may be used as matching money for federal funds or in combination with other state sources of transportation infrastructure funding, in accordance with all applicable requirements.

Eligible entities for grant funding include municipalities, counties, and the department. There are 5 members appointed to the enterprise board, but there is no representative for local governments. CML would seek amendments to include local government representation on the board to balance the strong representation of the department. Additionally, CML staff would seek clarification that the department does not receive most of the grant funding and that local governments with need are prioritized. **Staff recommendation: Support, with amendments.** *Lobbyist: Meghan MacKillop*

**Policy Statement:** *The League supports increased funds to finance pressing surface transportation needs as long as an equitable portion of new revenues is returned to cities and towns, and the League supports close cooperation among Colorado Department of Transportation, counties, municipalities and interested stakeholders in improving Colorado's multi-modal transportation system*

#### **Transportation: Programs to Reduce Ozone by Increased Transit Use**

The bill creates a new grant program for youth transit in the Department of Transportation (CDOT) and relocates and extends the Ozone Season Transit Grant Program from the Colorado Energy Office (CEO) to CDOT. The new Youth Fare Free Transit Grant Program in CDOT provides grants to transit agencies for year-round, fare-free transit services to riders 19 years of age or younger. The bill specifies the maximum amount of grant funding a recipient may receive each year, how any grant awards must be spent, and annual reporting requirements. \$7 million is appropriated annually for each grant program. The bill was also amended to include the establishment of an exploratory committee to consider the feasibility of creating a statewide transit pass. **Staff recommendation: Support.** *Lobbyist: Meghan Mackillop*

**Policy Statement:** *The League supports close cooperation among Colorado Department of Transportation, counties, municipalities and interested stakeholders in improving Colorado's multi-modal transportation system.*

#### **Substance Abuse: Harm Reduction Centers**

During the 2023 legislative session, the General Assembly considered a bill that would grant local control to municipalities to permit overdose prevention centers to reduce the likelihood that persons suffering from substance abuse disorders overdose in public areas such as parks, libraries, and in and around local businesses. The bill was postponed

indefinitely in the Senate Health and Human Services Committee. A new version of the bill is being considered by the Opioid and Other Substance Use Disorders Study Committee. This bill would allow a municipality to authorize and approve a pilot program that would establish a harm reduction center, which would have to meet minimum standards adopted by rules of the Colorado Department of Public Health and Environment (CDPHE). The pilot program and the operation of harm reduction centers are scheduled to end by January 1, 2028, unless further authorized by the general assembly. The bill would also create a harm reduction center advisory committee to make recommendations to the executive director of CDPHE regarding minimum standards for their operation.

**Staff recommendation: Support.** *Lobbyist: Meghan MacKillop*

**Policy Statement:** *The League supports state enabling legislation that provides municipalities with authority and flexibility to address local needs.*

## Information items

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### **Air Quality: Lawn and Garden Equipment Regulation**

The Air Quality Control Commission (AQCC) has scheduled a rulemaking regarding lawn and garden equipment regulations to take place December 12<sup>th</sup> through 15<sup>th</sup>. There are two competing proposals, one by the Air Pollution Control Division (APCD) and the Regional Air Quality Council (RAQC). APCD's proposal would establish a new regulation establishing in-use restrictions on lawn and garden equipment for local governments. This would apply to push and hand-held lawn and garden equipment used from June 1 to August 31, for local government agencies beginning in 2026. This regulation would not apply in jurisdictions where the equipment is used for abating or preventing damage during an emergency or fire mitigation activities. The RAQC proposal would similarly apply to local governments but beginning in 2025. IT would also prohibit the sale of gas-powered push and hand-held equipment in the state's nonattainment area. Staff has met with APCD staff, and it is staff's understanding that their proposal will be the one that moves forward to the AQCC. To understand how this regulation will impact municipal budgets, staff is collecting information from members. CML will submit written comments to the AQCC.

### **Beer & Liquor: LAG final report**

The state Liquor Advisory Group (LAG) will be completing its scheduled meetings and considering a final report before the end of the year. The LAG is a broad stakeholder group representing various parts of the industry and was convened via a Governor's Executive Order. The LAG has considered several policy recommendations. As stated by the group guidelines, all proposals that have been considered by the LAG will be included

in a final report, but only the recommendations that received unanimous approval will be considered “official” recommendations. All policies without unanimous approval will be included in the report with the vote count of LAG members. CML anticipates that there will be several issues impacting local licensing included in the report, including a new catering license, changes to the marketing allowances for the existing arts license, removal of statutory licensing fee caps, and more. The official report will be published and shared with General Assembly members to inform potential 2024 legislation.

### **Economic Development: County Revitalization Authority**

There will be another attempt in the 2024 session to create a mechanism for counties to form revitalization authorities that could use tax increment financing to fund improvements in unincorporated areas, like urban renewal authorities. The proposed legislation aims to grant counties the legal authority to allocate property tax revenue to specific unincorporated areas with long-term financial commitments to capitalize infrastructure and other improvements necessary for development that provides desired public benefits. Special districts and school districts would not be obligated to participate but would have the option to join projects under this new authority, which is a departure from the statutory requirements for URAs. The bill does not require a finding of blight as a precondition, but rather a finding that development of the “county revitalization area” would provide a public benefit. As proposed, the formation of a county revitalization area does not include municipalities in the approval process beyond an opportunity to provide input. The county would have to determine that there would be no undue impact on municipal services. Annexation of the territory would be prohibited unless the municipality satisfies any outstanding debt. CML is currently providing feedback to the proponents of the bill, which will include recommendations to align county revitalization requirements more closely with those of URAs and to provide specific limitations to protect municipal services and infrastructure, to address the annexation issues, and to avoid conflicts with municipal growth plans.

### **Water: Prohibition on Certain Landscaping Practices**

After January 1, 2025, the bill prohibits local governments and HOAs from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or an invasive plant species on any commercial, institutional, or industrial property. While the bill declares that preventing the installation of nonfunctional turf is a matter of statewide concern, the current bill draft applies only to local governments and HOAs and leaves out state owned and operated properties. Non- functional turf is defined as turf that is solely ornamental and located in areas such as street, sidewalk, driveway, parking lot, frontage areas, or median that is not regularly used for civic community, or recreational purposes. It does not include turf used in parks, sports fields, or playgrounds. The bill does allow the



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maintenance of turf planted prior to January 1, 2025 but prohibits new installation. This bill is being proposed at the Interim Water Resources and Agriculture Review Committee. The committee will vote on whether to move the draft forward at the October 31<sup>st</sup> interim committee meeting.