

CITY COUNCIL COMMUNICATION



MEETING DATE: February 9, 2010 **ITEM NUMBER:** 9E
TYPE OF ITEM: Consent
PRESENTED BY: Sandra Seader, Assistant to the City Manager (303-651-8634),
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SUBJECT/AGENDA TITLE: Legislative Update, including request to:

- **Support HB 10-1193**, concerning the collection of sales and use taxes on sales made by out-of-state retailers
- **Oppose HB 10-1162**, concerning payment of amounts due under a construction contract
- **Support SB 10-025**, concerning the long-term funding of the Water Efficiency Grant Program
- **Oppose SB 10-098**, concerning the allocation of moneys to promote conservation of the State's natural resources

EXECUTIVE SUMMARY: The legislative season is now one month underway, and almost 400 bills have been introduced and analyzed by staff. Although many of the bills are forays into fixing the State's budget issues, there are several bills of municipal interest. For the entire list of bills being tracked, please refer to the City's website at:
http://www.ci.longmont.co.us/city_manager/legislative_info/index.htm

HB 10-1193, concerning the collection of sales and use taxes on sales made by out-of-state retailers would create similar standing with respect to internet sales as put into place by the New York State legislature. Currently, internet sales are not subject to sales tax unless there is a "nexus", where the store physically resides where the internet purchase is made. Wal-mart, for example, must collect sales tax on internet sales, as they do have a physical location in Longmont. However, some states have determined that nexus also includes those retailers who have a "click-through" from another site who has a location in the jurisdiction. For example, if Wal-mart (which has nexus) were to have a "click-through" where you could purchase things from Amazon.com (which doesn't have nexus), this bill would require Amazon.com to remit sales tax to the State. Longmont would need to adopt a similar ordinance in order for this bill to affect the City. Staff recommends **support of HB 10-1193** as one small step towards leveling the playing field between online retailers and local businesses and collecting sales tax on internet purchases.

HB 10-1162, concerning payment of amounts due under a construction contract is similar to a bill that was introduced but died in the 2009 session. This bill reduces by one-half, the amount of retainage the City can hold on construction projects and changes the time of retainage release from completion to substantial completion. This would diminish our ability to have leverage to complete the punch list, complete the project if a contractor defaults and cover subcontractor or supplier claims. This basically requires the City to pay almost everything prior to a project being signed off on. The bill also allows substitution of securities for cash retainage, introducing a less stable financial instrument for ensuring the City has sufficient protection to complete projects.



Staff recommends the City Council **oppose HB 10-1162**, as it gives the City less leverage to ensure that construction projects are completed adequately.

SB 10-025, concerning the Long-Term Funding of the Water Efficiency Grant Program extends the repeal of the water efficiency grant program until July 1, 2020, and authorizes up to \$550,000 of annual appropriations from the cash fund beginning on July 1, 2010. Longmont completed its Water Conservation Master Plan update in 2008 and received State approval of that plan. This bill helps support the City's stated goal of developing a sustainable community and it is the recommendation of the Water Board at their January 25, 2010 regular meeting to **support SB 10-025**.

SB 10-098, concerning the allocation of moneys to promote conservation of the State's natural resources does several things, including re-directing money from the conservation trust fund to the Department of Agriculture for noxious weed management and conservation district grants. The intent of the conservation trust fund is to provide money for parks, open space and community recreation, as approved by the voters of Colorado. This bill would divert funds from those local programs towards those programs which the public has not deemed a priority. Reduction of this fund could reduce the City of Longmont's annual allocation of \$800,000 per year which goes toward the development of the St. Vrain Greenway. Staff recommends that Council **opposes SB 10-098**, as it may result in a net decrease of funding for the City and does not reflect the public's service priorities.

COUNCIL OPTIONS: Council may support, oppose or remain neutral on any of the bills presented.

RECOMMENDED OPTIONS: Staff recommends that the Longmont City Council:

- **Support HB 10-1193**, concerning the collection of sales and use taxes on sales made by out-of-state retailers
- **Oppose HB 10-1162**, concerning payment of amounts due under a construction contract
- **Support SB 10-025**, concerning the Long-Term Funding of the Water Efficiency Grant Program
- **Oppose SB 10-098**, concerning the allocation of moneys to promote conservation of the State's natural resources

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION: Fiscal impacts may occur with each of the proposed bills.

BACKGROUND AND ISSUE ANALYSIS: N/A

ATTACHMENTS:

- Issue Brief on SB 10-025
- HB 10-1193
- HB 10-1162
- SB 10-025
- SB 10-098

Issue Brief

[Senate Bill 10-025, concerning the long-term funding of the water efficiency grant program.](#)

SUMMARY:

The water efficiency grant program is currently scheduled to be repealed on July 1, 2012. Section 1 of this bill extends the repeal until July 1, 2020, and authorizes up to \$550,000 of annual appropriations from the cash fund beginning on July 1, 2010. Section 2 of this bill annually transfers \$550,000 from tier 2 of the operational account of the severance tax trust fund to the water efficiency grant program cash fund beginning July 1, 2012.

CURRENT STATUS:

01/13/2010 Introduced In Senate - Assigned to Agriculture and Natural Resources

LONGMONT IMPACT:

State of Colorado created the water efficiency grant program to provide state funding to aid in the planning and implementation of water conservation plans. These plans will promote water efficiency. Colorado Water Conservation Board is authorized to distribute grants to entities with approved Water Conservation Master Plans from the water efficiency grant program.

Longmont completed its Water Conservation Master Plan update in 2008 and received State approval of that plan. This bill helps support the City's stated goal of developing a sustainable community.

Staff recommends that City Council **Support** SB10-025 as currently drafted.

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