



Please vote YES on HB 15-1074

County Commissioner Individual Liability

Sponsor: Rep. Vigil

Purpose:

This bill will amend CRS 30-11-105, which stipulates how boards of county commissioners are able to participate in lawsuits, to specifically prohibit individual county commissioners from being personally liable for the actions of the board. It is intended to clarify that the protection of governmental immunity applies to boards of county commissioner. This protection does not apply to the actions of a county commissioner when they are not acting in their capacity as a commissioner

Background:

In 2014 an Elbert County Judge levied a judgment against the BOCC for a violation of campaign finance laws, but only imposed penalties (a \$1000 fine) on a single commissioner. The board had voted to spend \$15,000 on a consultant to organize events in support of a ballot initiative to increase taxes. Although the decision to hire the consultant was made by the entire board acting in its official capacity, the judge ruled that only one of the commissioners, Robert Rowland, would be required to pay a fine.

The intent of HB15-1074 is to insert language into CRS 30-11-105 to specifically state that county commissioners are not individually responsible for the actions of the board as a whole. As it appears now CRS 30-11-105 states that “In all suits or proceedings by or against a county, the name in which the county shall sue or be sued shall be, ‘The board of county commissioners of the county of...’”. Although this language seems to indicate that the BOCC of a given county should be legally considered a single entity, the statute does not specifically state that individual commissioners are not liable for the actions of the board. With the ruling in Elbert County, there is a legal precedent being set that commissioners are individually liable. HB15-1074 is meant to clarify the intent of the original statute and prevent more rulings like the one in Elbert County.

What this bill does:

Adds the following language to CRS 30-11-105: “Any judgment against a board of county commissioners arising solely from an act of the board exercising its authority as the governing body of a county shall not be enforced against one or more individual members of the board. Nothing in this subsection (2) prevents the joinder of one or more individual members of a board of county commissioners in the same or separate action or applies to a case where an individual member of a board of county commissioners in the same or a separate action or applies to a case where an individual member of a board of county commissioners is found individually liable for a violation of law.”

Funding:

This bill limits individual board member liability for a judgment against a board of county commissioners arising from an act of the entire board, while acting within its formal authority. Although this may create an additional point of contention for parties while litigating a complaint, the bill is not anticipated to change the number of such cases considered by the courts. Further, this bill will not change the revenue, expenditures, or workload of any state agency, local government, or the judicial branch. For these reasons, the bill is assessed as having no fiscal impact.

Support:

- County Commissioners

Opposition:

- None known at this time

CCI asks for your YES vote on HB 15-1074

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