



COLORADO  
MUNICIPAL  
LEAGUE

# NEWSLETTER

Vol. 50, No. 15, July 26, 2024

## EDUCATION & TRAINING

# CML expands Effective Governance workshops, reaching the corners of Colorado

*By Denise White, CML engagement & communications manager*

**T**here is a lot to know when serving as a municipal elected official. As a new or seasoned councilmember or trustee, it is important to understand the basics as you serve your term.

Colorado Municipal League is expanding its popular Effective Governance training program statewide, responding to valuable member feedback to bring the training closer to them. This initiative aims to increase the ability for all members to attend, regardless of location.

The comprehensive program equips elected officials and municipal staff with essential governance knowledge and skills. Its blended format includes engaging in-person workshops and convenient online modules launching soon, catering to diverse learning preferences. The program, designed for both new and experienced officials and staff members supporting local government, provides practical tools and knowledge to enhance effective governance.

### UPCOMING TRAINING OPTIONS FOR EVERY SCHEDULE AND LOCATION

**August-September:** The Effective Governance on the Road workshop series brings a four-hour version of the classic training to communities around our state. In 2024, CML will present this workshop in Sterling (Aug. 16), Glenwood Springs (Aug. 21), and Durango (Aug. 29). Topics presented include staff-council relations; ethics, liability, and conflicts of interest; media relations and social media; and civility and grassroots advocacy in local government. Each session will feature a lunch panel discussion, fostering peer interaction and shared learning. Participants will

also receive a link to a recording of the CML Annual Conference session on Finance and Budgeting for Municipalities 101.

**October:** For those seeking a full day of practical guidance on navigating the complexities of local government, CML is hosting an interactive, in-person training in Denver on Oct. 24. This

intensive session will delve into a wide range of topics, including open meetings and procedures, Bob's Rules of Order, elections, public official ethics and liability, staff-council relations, tax and fiscal policy, media relations, and more. This workshop provides the opportunity to network and share experiences with fellow officials

from across the state. Participants will also receive a link to the Finance and Budgeting for Municipalities 101 session recording.

**On-demand:** CML is also developing self-paced online modules that will launch soon, covering foundational topics like the role of elected officials, staff-council relations, public official liability, ethics, conflicts of interest, and open meetings law. These modules will offer flexibility and year-round access, allowing members to learn or refresh their knowledge on the basics of municipal governance when and where it is convenient.

CML is committed to providing our members with the resources needed to govern effectively. For more information and registration, visit [cml.org/home/education-training](http://cml.org/home/education-training). We look forward to seeing you at one of our upcoming training sessions and ensuring you have the knowledge and tools to lead with confidence and competence in your communities. Additionally, members can mark their calendars for CML's popular Mayors Summit program, happening Jan. 23, 2025.

CML

# EFFECTIVE GOVERNANCE

Empowered cities & towns, united for a strong Colorado

# EMPOWERED CITIES AND TOWNS, UNITED FOR A STRONG COLORADO



COLORADO MUNICIPAL LEAGUE **NEWSLETTER**

CML Newsletter (ISSN 7439903) is published biweekly by the Colorado Municipal League, 1144 Sherman St., Denver, CO 80203-2207, for Colorado's municipal officials. (USPS 075-590) Periodical postage paid in Denver, Colorado.

**Editor: Denise White**  
**Designer: Alex Miller**  
**Circulation/mailling lists: Mark Vanderbrook**

POSTMASTER: Send address change form 3579 to Colorado Municipal League, 1144 Sherman St., Denver, CO 80203-2207; (p) 303-831-6411 / 866-578-0936; (f) 303-860-8175.

Subscription to CML Newsletter is offered as a portion of member dues.

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## Plumbing Board adopts temporary enforcement policy for HB24-1344

The Colorado State Plumbing Board met July 17 to consider the request sent by the Colorado Department of Public Health and Environment (CDPHE) to use its statutory discretion and not issue disciplinary actions until such time as the implementation process for House Bill 24-1344 is complete.

CDPHE expressed concerns that enforcing the new licensure requirements of HB24-1344 before implementation and rulemaking can take place will reduce the available number of certified cross-connection control technicians and negatively affect water providers' ability to ensure the potable water supply is protected from the potential spread of disease.

The board found that these concerns are warranted and determined a temporary enforcement policy is necessary to ensure consumer protection and safeguard the health of the people of Colorado.

The board delegated authority to the program director to administratively dismiss complaints against certified cross-connection control technicians

and send an informal letter to the respondent (the person or entity the complaint is against) letting them know about the new requirements. This delegation will remain in place until April 1, 2025.

The board must engage in the rulemaking process to implement these legislative changes. Rulemaking includes a stakeholder engagement process in which members of the public can provide comments related to the legislation. This implementation process will take place in the coming months, and the law will not fully be implemented until April 2025.

To sign up to receive notifications of rulemaking and stakeholder input opportunities, please fill out the form at [tinyurl.com/4enmyndk](http://tinyurl.com/4enmyndk).

The board's next regular meeting will be Aug. 28 at 9 a.m. An agenda and link to join will be posted prior to the meeting at [dpo.colorado.gov/Plumbing](http://dpo.colorado.gov/Plumbing).

For questions related to the Plumbing Practice Act, please contact: [dora\\_plumbingboard@state.co.us](mailto:dora_plumbingboard@state.co.us).

## CELEBRATE WITH CML

CML wants to hear about your community's successes. Tell us about a grant you've won, water tank that's finally finished, or anything else you're excited about! Email CML Publication & Design Specialist Alex Miller, [amiller@cml.org](mailto:amiller@cml.org).



# CML NEEDS YOUR HELP!

Please participate in our 2024 Member Survey by Aug. 2 to provide feedback on our services. Members were sent an invitation to participate in the survey from ETC Institute over email earlier this month; please email Rachel Woolworth at [rwoolworth@cml.org](mailto:rwoolworth@cml.org) if you did not receive a survey invitation.

**Your insights are essential to the League!**



## Kathy Hodgson celebrates 40 years with Lakewood

By Kevin Bommer, CML executive director

Recently, Lakewood City Manager Kathy Hodgson celebrated 40 years of service to the City of Lakewood.

Kathy first started with Lakewood in her teens as a lifeguard at Morse Pool. Throughout the years, her summer job turned into a career of public service to the city. Prior to being appointed



in her profession and an inspiration to the growing numbers of women in the

city manager in 2009, Kathy was the director of community resources.

In addition to the many contributions to her community, Kathy has been a leader

city management field. She has also given her time to the Colorado Municipal League and supported CML's vision of "empowered cities and towns" by serving three terms on the CML Executive Board (2014-2020).

CML congratulates Kathy on 40 years and for all she has done and continues to do for Lakewood and all Colorado municipalities!

## Funding for electric mobility projects

Through the Community Access Enterprise (CAE) and the Colorado Energy Office (CEO), the Community Accelerated Mobility Project (CAMP) grant program is a funding opportunity designed to support communities in meeting a variety of community-defined mobility needs. The program provides funding for community-driven projects with an electric mobility (e-mobility) component, which may include electric carshare, electric vanpool, community e-bike share, and more. CAMP offers two phases of grant funding: a Technical Readiness Planning Phase and an Implementation Phase.

We are pleased to announce that the first application round for CAMP Implementation Phase grant funding is now open. Implementation Phase grant funding is available to help cover the costs of developing and implementing an eligible e-mobility project. Visit the CAMP website to learn more about this opportunity.

CEO and CAE plan to open additional funding rounds for both phases of the CAMP program later this year. More information about these additional rounds will be available in the coming months.

## CML trainings and workshops

Explore CML's upcoming trainings and workshops. Visit [cml.org](http://cml.org) for the full calendar and registration details.

### CIVILITY TRAINING

- Virtual workshop in August and September

### ANNUAL SEMINAR ON MUNICIPAL LAW

- Sept. 20-21 in Colorado Springs

### MAYORS' SUMMIT

- January 2025

### AND MORE

- Keep an eye out for upcoming webinars on a variety of topics.

## Mayors Leadership Academy

Leading a city comes with unique challenges — and solutions. In partnership with Colorado Municipal League and the Metro Mayors Caucus, Civic Results is launching its first Mayors Leadership Academy, beginning Aug. 8. This in-person program, held in varying locations around the metro Denver area and the

state of Colorado, will offer full-day sessions monthly from August to March that are focused on building skills, networks, and relationships. For more information, please email [info@civicresults.org](mailto:info@civicresults.org) or visit [tinyurl.com/mtya984b](http://tinyurl.com/mtya984b).

## Metro Area BID DDA URA Mobile Tour

Many Colorado communities are curious about districts and authorities that can focus on redevelopment, reuse, and place management in downtown and commercial areas. Why sit in a conference room to learn, when you can hit the road and tour some Business Improvement District, Downtown Development Authority, and Urban Renewal Authority projects?

Colorado Municipal League and Downtown Colorado, Inc. are pleased to announce our fifth annual financing mechanism mobile tour on Aug. 22. Register today by visiting [tinyurl.com/34mdvznj](http://tinyurl.com/34mdvznj).

## NLC webinar on artificial intelligence

In the media, we hear about Artificial Intelligence (AI) as if it were monolithic. But AI is not one technology, it is a collection of many types of technologies.

Join the National League of Cities and the AAAS Center for Scientific Evidence at noon on Aug. 8 to learn about which AI types are used for which tasks in local government and the various benefits and risks each type of technology poses when used in the public sector.

Register for the webinar at [tinyurl.com/mrxvuv8m](http://tinyurl.com/mrxvuv8m).

## RESEARCH CORNER

# FEDERAL INFRASTRUCTURE FUNDS AWARDED TO MUNICIPALITIES

Data visualization by **RACHEL WOOLWORTH**, CML municipal research analyst, and **ALEX MILLER**, CML publication & design specialist

**M**unicipalities across Colorado have received more than \$272 million dollars in Bipartisan Infrastructure Law (BIL) funding since the law was signed by President Biden in 2021. The legislation invests federal dollars in infrastructure projects related to public transportation, energy, water, broadband, climate resilience, and more. The National League of Cities Rebuilding America dashboard, available at [tinyurl.com/ypj58ff8](https://tinyurl.com/ypj58ff8), tracks BIL grants awarded to municipalities across the country. The following data points for Colorado municipalities are for January 2022 through April 2024.

59

BIL grants awarded to Colorado municipalities

\$49,682,927

Awarded to Glenwood Springs for construction of a new bridge, the largest BIL grant awarded to a Colorado municipality to date

\$30,300,187

Awarded to Colorado municipalities for environmental remediation, including Superfund and Brownfields projects

35

Colorado municipalities received BIL funding

63%

Of municipal projects receiving BIL funding in Colorado were related to roads, bridges, and major projects (36%) and airports and Federal Aviation Administration facilities (27%)

8

Colorado municipalities received individual grants of more than \$10 million in BIL funding (Glenwood Springs, Denver, Boulder, Lakewood, Pueblo, Delta, Fort Collins, and Silverton)

DENVER

Received the most BIL funding of any Colorado municipality (\$59,034,965)

SILVERTON

Received the most BIL funding of any Colorado municipality per resident (\$16,196 per resident)



## DOLA awards more than \$2 million in grants for energy projects

The Department of Local Affairs (DOLA) announced more than \$2 million in recent awards funded by the U.S. Department of Energy's (DOE) Grid Resilience State and Tribal Formula Grant Program and state funds through the Microgrids for Community Resilience (MCR) Program. These grants pay for essential projects to enhance Colorado's electric grid resilience, in support of Colorado's rural and mountain communities.

These are the first projects in Colorado funded since DOE awarded the Colorado Energy Office (CEO) and DOLA \$17.2 million for the first two years of a five-year funding program. This award will support a study on the potential role of microgrids in advancing state energy goals, such as increasing the resiliency and reliability of the electric grid, reducing greenhouse gas emissions, and supporting the state's

transition to clean energy and beneficial electrification.

The microgrid grant program, established by House Bill 22-1013, is designed to enhance community resilience against electric grid disruptions through the development of microgrids. DOLA awarded \$2,109,641 in microgrid program grants to six projects.

- The Town of Springfield Microgrid Planning Project was awarded \$32,160 to explore backup power and microgrid opportunities with support from the Arkansas River Power Authority.

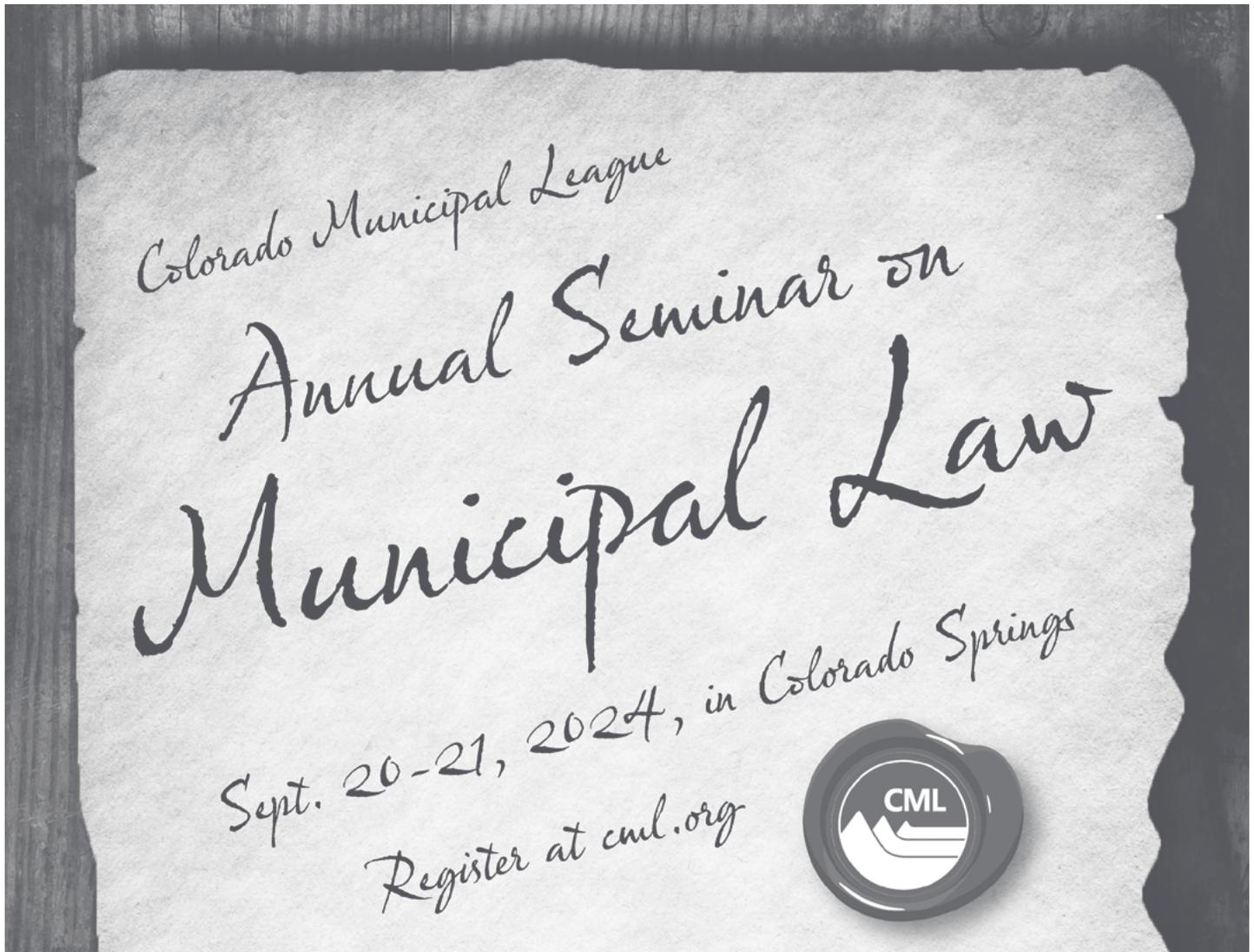
- San Miguel Power Association was awarded \$46,900 to install a microgrid system of a 4.8 kW solar system and 37 kWh battery storage at the Decker Community Room in Ridgway. This microgrid will provide 1.5 days of backup power.

- San Miguel Power Association received \$83,750 to install a battery storage system coupled with an existing solar array, ensuring backup power for emergency communications.

- \$350,000 was awarded to support a battery installation in Estes Park serving critical facilities like the Estes Valley Protection District and Estes Park Hospital.

- United Power received \$700,656 to install batteries at four fire stations (three in Weld County and one in Jefferson County) in historically disadvantaged communities, ensuring resilience during outages.

- Poudre Valley Rural Electric Association was awarded \$896,175 to install a battery and microgrid controller in Livermore, to provide essential services during extreme weather and outages.



# CML LEGAL CORNER



## What does the *Loper Bright* ruling mean for Colorado?

By Rachel Bender,  
CML senior associate counsel

On June 28, the U.S. Supreme Court issued its decision in *Loper Bright Enterprises v. Raimondo*, overturning the 40-year-old *Chevron* doctrine, which had required courts to defer to an agency's interpretation of an ambiguous statute. While the full impact of the *Loper Bright* ruling remains to be seen, this article provides a primer on *Chevron* and *Loper Bright*, as well as related Colorado law, and speculates about relevant areas of federal law that might be impacted.

### THE CHEVRON DOCTRINE

Decided by the U.S. Supreme Court in 1984, *Chevron* directed courts to defer to a federal agency's interpretation of an ambiguous statute if the interpretation is based on a permissible construction of the statute. To be permissible, the interpretation had to be "rational" or "reasonable." This relatively low bar imparted great authority to federal agencies and made it difficult to successfully challenge federal regulations. One of the policy rationales behind *Chevron* deference was that agencies often have greater expertise in the subject matter at issue than the courts, particularly when statutory ambiguities involve technical or scientific questions.

### LOPER BRIGHT RULING AND IMPACT

*Loper Bright* arose out of fishery companies challenging a federal regulation promulgated by the National Marine Fisheries Service by way of challenging the application of *Chevron* deference to the agency's interpretation. The adoption of regulations like the one at issue, as well as the judicial review of any federal agency actions, are governed by the Administrative Procedure Act (APA), which Congress enacted in 1946.

Despite courts' typical adherence to prior legal precedent (referred to as *stare decisis*), in *Loper Bright*, the U.S. Supreme Court overturned *Chevron* in a 6-3 decision finding it violated the APA. The Court relied on *Marbury v. Madison*, which held that "it is emphatically the province and duty of the judicial department to say what the law is." And, while the *Loper Bright* Court recognized that "exercising independent judgment often include[s] according due respect to Executive Branch interpretations of federal statutes," it went on to note that "respect" is "just that." Thus, Chief Justice Roberts, writing for the majority, held that "agency interpretations of statutes — like agency interpretations of the Constitution — are not entitled to deference."

While it is too soon to know how the *Loper Bright* ruling will impact existing and future federal regulations, there are likely to be changes that will affect local governments. In some cases, those impacts may benefit local governments while in others, they may be problematic. Some examples of federal agency regulations that may change or be challenged under *Loper Bright*, thereby impacting local governments, include Environmental Protection Agency rules addressing clean water, clean air, and vehicle emissions; Federal Aviation Administration regulations regarding permissible aircraft noise levels and drones; Federal Communications Commission regulations on broadband, cable franchises, and wireless infrastructure; and Federal Railroad Administration regulations for railroad safety.

Because *Loper Bright* weakens the power of administrative agencies, there will likely be an increase in successful legal challenges and a shrinking of the administrative state. As noted, this could be of benefit or detriment to local governments depending on the regulation at

issue. However, it opens the door to local governments having a greater likelihood of success in challenging federal regulations as well. While *Loper Bright* provides a new legal framework going forward, expect to see future legal challenges that will further define the boundaries of agency deference.

Finally, as observed by the International Municipal Lawyers Association, *Chevron* provided the benefit of some level of regulatory uniformity across the country that may change under *Loper Bright* due to disparate interpretations of statute by different federal courts. On the other hand, there may be less upheaval of federal regulations that have often come with each change of presidential administrations.

### COLORADO'S CURRENT VIEW

The Colorado Supreme Court addressed the issue of agency deference in 2021 when it issued its opinion in *Nieto v. Clark's Market*, 488 P.3d 1140, which established a standard that appears very similar to the *Loper Bright* standard. In *Nieto*, the court declined to adopt *Chevron*-like deference to agencies "that would require courts to defer to a reasonable agency interpretation of an ambiguous statute even if a better interpretation is available." Instead, "agency interpretations should be given due consideration" but "are not binding on the court."

While *Nieto* addresses state regulations and *Loper Bright* addresses federal regulations, the alignment of these standards may result in greater utilization of federal case law to inform future legal challenges of Colorado administrative regulations.

*This column is not intended and should not be taken as legal advice. Municipal officials are always encouraged to consult with their own attorneys.*



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