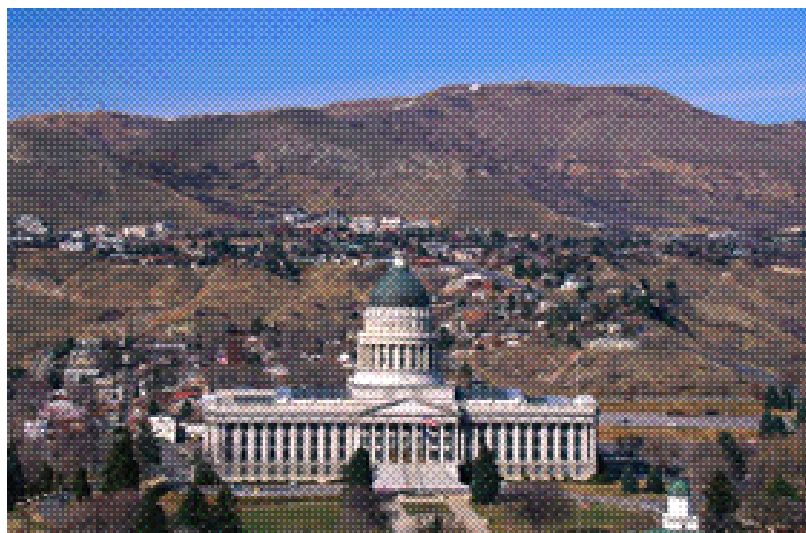




2005 General Legislative Session Update

Utah League of Cities and Towns



The 2005 Legislative Session

45 Days in Review

April 2005



Legislative Team

Kenneth H. Bullock, Executive Director kbullock@ulct.org

Ken is responsible for the overall management of day-to-day League operations and activities. He works closely with the League Board of Directors and ensures that Board objectives are achieved. Ken represents the League on various committees and boards and has routine contact with government officials, business leaders and the public.

Lincoln Shurtz, Legislative Analyst lshurtz@ulct.org

Lincoln coordinates legislative policy for municipalities and presents findings to State administrative and legislative branches. He administers the legislative policy committee and fields individual municipal questions, and writes a pre and post legislative report. Lincoln specializes in the Utah State Budget, transportation and retirement issues.

Jodi Hoffman, Legislative Affairs jhoffman@xmission.com

Jodi coordinates legislative policy for municipalities and presents findings to State administrative and legislative branches. She assists in the administration of the legislative policy committee and fields individual municipal questions. Her specific areas of expertise include municipal power and land use legislation.

Roger Tew, Tax Analyst robertew@ulct.org

Roger coordinates legislative policy for municipalities and presents findings to State administrative and legislative branches. Roger also fields individual municipal questions and concerns. His specific areas of expertise include tax policy and telecommunications issues.

Kerri Nakamura, Budget Analyst knakamura@ulct.org

Kerri coordinates the League's budget database. She assists individual communities with budget and policy issues such as: revenue and expenditure monitoring; capital project budgeting; budget amendments; business licensing; impact fee revenue and expenditure tracking; contracting for services and other related issues.

Meg Ryan, Land-Use Analyst mbryan@xmission.com

Meg provides a variety of technical assistance on land-use related issues for municipalities, updates on new legislation affecting the planning and zoning aspects of municipal government and assists with on-site land use training.

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HOW DOES THE ULCT WORK?





WHO IS SETTING THE ULCT POLICY?

The ULCT Legislative Policy Committee is composed of elected and appointed municipal officials through out the state of Utah. It is a comprehensive group of individuals who meet once a month through out the year, and weekly during the legislative session. The ULCT Policy Committee maintains a balance between both Wasatch Front and Non- Wasatch Front Officials, as well as maintaining a balance between elected and appointed officials from municipal government.

2005 ULCT LEGISLATIVE POLICY COMMITTEE

Wasatch Front Elected Officials

Joe Johnson, Mayor (Board Member) -- Bountiful
Paul Cutler, Council Member -- Centerville
Lori Miller, Council Member -- Clinton City
Darrell Smith, Mayor -- Draper
Susan Holmes, Council Member -- Farmington
Eileen Moss, Council Member -- Fruit Heights
J. Lynn Crane, Mayor -- Herriman
J. Casey Hill, Council Member -- Kaysville City
Neka Roundy, Council Member -- Kaysville City
J. Stephen Curtis, Council Member -- Layton
JoAnn Seghini, Mayor (Past President) -- Midvale
Krista Dunn, Council Member -- Murray
Roger Burnett, Mayor -- Roy City
Eric Jergensen, Council Member -- Salt Lake City
Tom Dolan, Mayor (Past President) -- Sandy City
Don Pott, Council Member (2nd Vice President) -- Sandy City
Bryant Anderson, Council Member -- Sandy City
Steve Fairbanks, Council Member -- Sandy City
Dennis Tinney, Council Member -- Sandy City
John Winder, Council Member -- Sandy City
Wes Losser, Mayor -- South Salt Lake
Bill Anderson, Council Member -- South Salt Lake
Fred Panucci, Mayor -- Syracuse City

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2005 POLICY COMMITTEE CONTINUED

Lurlen Knight, Council Member -- Syracuse City
Janice Auger, Mayor (1st Vice President) -- Taylorsville
Morris Pratt, Council Member -- Taylorsville
Charlie Roberts, Mayor (Board Member) -- Tooele
Brian Holladay, Mayor -- West Jordan
Stuart Richardson, Council Member -- West Jordan
Dennis Nordfelt, Mayor -- West Valley City
Margaret Peterson, Council Member -- West Valley City

Wasatch Front Appointed Officials

Kate Black, Town Clerk -- Alta
Tom Hardy, City Manager -- Bountiful
Steve Thacker, City Manager -- Centerville
Larry Waggoner, City Attorney -- Clearfield
Dennis Cluff, City Manager -- Clinton City
Eric Keck, City Manager -- Draper
Max Forbush, City Manager -- Farmington
Craig Hall, City Attorney -- Holladay
Gary Crane, City Attorney -- Layton
Lee King, City Administrator -- Midvale
Jan Wells, Deputy for Legislation & Communications -- Murray
Chris Davis, City Manager -- Roy City
Rocky Fluhart, City Manager -- Salt Lake City
Ryan Mecham, Director of Communications -- Sandy City
John Hiskey, Deputy Mayor -- Sandy City
Ricky Horst, City Manager -- South Jordan
Bruce Talbot, Community & Economic Development -- South Salt Lake
Gary Uresk, City Administrator -- Woods Cross

Non-Wasatch Front Elected Officials

Kent Hastings, Council Member -- Alpine
Shril Don LeBaron, Council Member -- American Fork
Gil Miller, Mayor -- Bear River City
Lou Ann Christensen, Mayor (Board Member) -- Brigham City
Michael Williams, Mayor -- Emery
Don Olson, Council Member (Board Member) -- Ephraim
Mike Leonhardt, Council Member -- Garden City
Fred Oates, Mayor -- Harrisville City
Pat Manis, Council Member -- Hinckley



2005 POLICY COMMITTEE CONTINUED

Nathan Pace, Council Member -- Kaysville City
Larry Ellertson, Mayor (President) -- Lindon
Doug Thompson, Mayor (Board Member) -- Logan
Steven Taylor, Council Member -- Logan
Dave Sakrison, Mayor (Board Member) -- Moab
Marie Heiner, Mayor -- Morgan
Chesley Christensen, Mayor -- Mt. Pleasant
Lynn Muirbrook, Mayor (Board Member) -- North Ogden
Jerry Washburn, Mayor (Board Member) -- Orem City
Doug Forsyth, Council Member -- Orem City
Shiree Thurston, Council Member -- Orem City
Candy Erickson, Council Member (Board Member) -- Park City
Bernell Evans, Mayor -- Payson City
Joe Piccolo, Mayor (Past President) -- Price
Lewis Billings, Mayor -- Provo
Larry Lunnen, Council Member (Board Member) -- Richfield City
Vic Jensen, Mayor -- River Heights
George Garwood, Jr., Mayor (Past President) -- South Ogden
Vickie Mattson, Council Member -- South Ogden
E. Fritz Boyer, Mayor -- Springville
Dan McArthur, Mayor (Past President) -- St. George
Suzanne Allen, Council Member (Board Member) -- St. George
Janice Galbraith, Mayor -- Sunset
William Kremin, Mayor (Board Member) -- Vernal

Non-Wasatch Front Appointed Officials

Tom Bakaly, City Manager -- Park City
Don Tingey, City Administrator -- Brigham City
Chris Hillman, City Administrator -- Eagle Mountain
Mark Sorenson, City Attorney -- Logan
Randy McKnight, City Administrator -- Nephi City
Nate Pierce, Chief Admin Officer -- Ogden
Jim Reams, City Manager -- Orem City
Gary Hill, Analyst -- Park City
Frank Mills, City Administrator -- Pleasant Grove

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Non-Wasatch Front Appointed Officials (Continued)

Wayne Parker, Chief Admin Officer -- Provo
Matthew Brower, City Manager -- Santa Clara
Scott Darrington, City Manager -- South Ogden
Shawn Guzman, City Attorney -- St. George
Ken Bassett, City Administrator -- Vernal
Mark Christensen, City Manager -- Washington Terrace

**WHERE IS THE MUNICIPAL INFORMATION
COMING FROM?**

In 1998 the ULCT began a municipal finance data project to gather and maintain budgetary and financial information from member communities. An amazing 69 communities responded to our request, and participated that first year. Each subsequent year we have seen the number of communities participating inch towards the century mark, giving us an even firmer grasp on both the local government revenue and expenditure picture. The League has compiled, analyzed, and used this information to enhance our efforts at the State Legislature and support our member communities.

In the past four years, the League has merged its process with the State Auditor's office, and compiled a new, comprehensive UT-2 Municipal Finance Database. Under this new project, we are now collecting and maintaining the fiscal data for all municipalities within the State of Utah. This information has become the official State record for municipal budgetary information, and is often used by Legislative Research, the Governor's Office of Planning and Budget, and many other State organizations, as well as the US Census Bureau. The League of Cities & Towns often uses this information to quantify the fiscal impact of potential legislation, show revenue and expenditure trends at the municipal level, and show legislators what certain policy shifts may mean to communities they represent.

In our efforts to describe the fiscal situation of local government, we have also begun sifting through the archived records of municipal government and compiling a fiscal history of municipal government that will span 20 plus years and with every additional year of information the municipal fiscal picture becomes less pixilated.

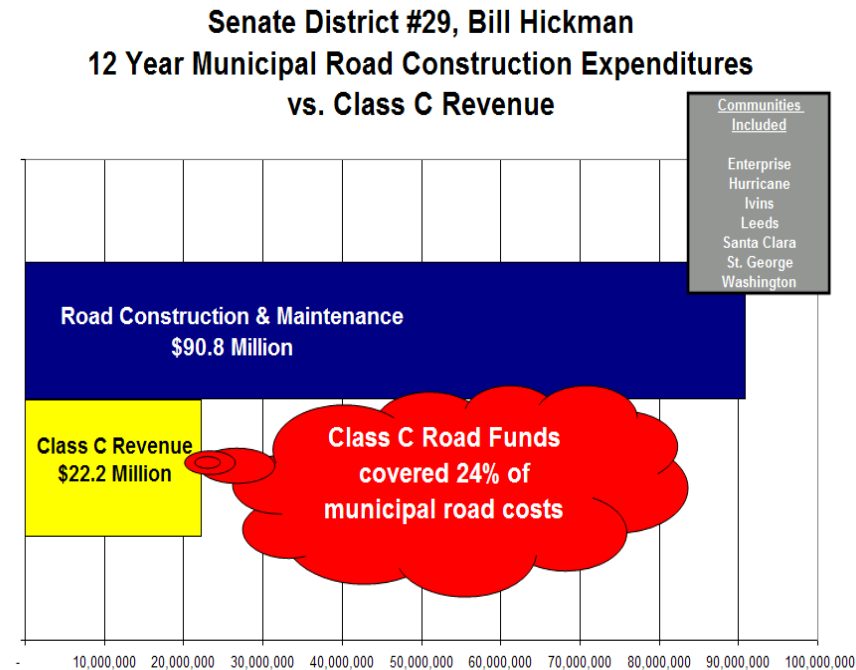
If you have questions regarding this information or would like to know where your community fits in, please contact Kerri Nakamura at the League office, 801-328-1601.



WHAT DOES IT LOOK LIKE?

This is a graphical representation of the information collected out of the ULCT Municipal Finance Database. Information of this nature is used to give quantifiable testimony regarding the fiscal implication of legislation as pertains to local government.

SAMPLE INFORMATION FROM FINANCE DATABASE



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2005 Legislative Bill Summary



HB-11
Economic Development Incentives

Sponsor: Rep. Brad Dee

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: The bill allows the Department of Community and Economic Development to create economic development zones for the purpose of creating new high-paying jobs in areas that are already zoned commercial, industrial, business and research parks or other appropriate use in a community approved master plan.

The bill allows the state and local governments to use partial rebates of increased revenue, generated by the new economic development area, to pay for infrastructure and development of the economic development zone.

In order to use the partial rebates the project must include significant capital investments, create new jobs, or make significant purchases from Utah vendors.

The firm receiving rebates must keep records for at least 4 years that verify job creation and direct investment in the area in order to be eligible for the rebate.

The bill does not require the use of partial rebates by the local jurisdiction, but gives them the authority to use local rebates if desired.

All economic development zones are determined by DCED, but must be approved and forwarded to DCED by the local jurisdiction.

Procedures for payment of state rebates are outlined in USC 9-2-

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HB- 18 Substitute
Transportation Investment Act

Sponsor: Rep. Rebecca Lockhart

Bill Status: Failed/Probably readdressed in Special Session

ULCT Position: Support

Purpose of the Bill: This bill was the result of the two year legislative taskforce on transportation planning. The bill essentially earmarked state sales tax revenue associated with the purchase of automobiles or automobile related products to a new transportation investment fund. The bill took a portion of that earmark (\$90 Million) and dedicated it to the repayment of the Centennial Highway Endowment Fund. The remainder of the revenue would be used for capacity improvement projects on the state highway system. The bill provided a phased transition into the new revenue earmark, and for FY2006 would have provided \$90 Million for Centennial Highway bond repayment and \$30 Million for capacity improvement projects. Over the course of several years, the annual diversion of state general fund sales tax would have been approximately \$330 Million.

Municipal Implication: This bill would have provided the necessary revenue to the Utah Department of Transportation to complete many of the projects that were outlined on the various Association of Governments long range transportation plans.

While the bill failed to pass on the last night of the session, the Governor did, however, use the line item veto in the state budget to make sure the appropriation of funds was made for the capacity improvements that were outlined in the AOG long range plans (\$30 Million).



HB-36 Second Substitute
Charter School Construction Amendments

Sponsor: Rep. Jim Ferrin

Bill Status: Passed

ULCT Position: Support as Substituted

Purpose of the Bill: H.B. 36 Second Substitute is a bill which attempts to harmonize the effects of local land use laws and building codes on Charter Schools. Currently, school district buildings and facilities are all but exempt from local regulation. Originally, H.B. 36 would have granted Charter Schools an identical exemption.

Many believed that the district schools exemption is far too broad—especially as it pertains to local building inspection and to respecting objective zoning standards such as height, bulk, mass, parking, traffic and setback regulations.

Our compromise was to place Charter Schools on the same playing field as District Schools in most respects, with a few significant exceptions. The highlights of the bill are:

Rather than avoid planning and zoning as district schools may, Charter Schools will be permitted uses in all zoning districts;
Local jurisdictions will apply a limited set of planning criteria to ensure a base level of compatibility between the school and the neighborhood in which it is located;
Local jurisdictions will give priority to processing Charter Schools applications; and

Charter Schools will use either a school district building inspector, a municipal building inspector, or an independent building inspector that is supervised by either the school district or the local jurisdiction inspector.

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HB-36 Second Substitute
Charter School Construction Amendments ... continued

Municipal Implication: This bill designates that charter schools are “permitted uses” in all zones, unless the designation would defeat the purpose of the zone, (i.e. S.O.B., entertainment, etc.).

The bill requires jurisdictions to accept charter schools in virtually all zones, but renders the charter schools subject to virtually all objective standards in the zones (i.e. height, bulk, massing, setbacks, on site parking, traffic circulation, construction staging, etc.). It otherwise extends to charter schools the exemptions that school districts have from certain planning and zoning requirements. However, it substantially narrows the exemptions for both charter and public schools. For example, the bill clarifies that both public and charter schools are subject to traffic impact fees.

Both public and charter schools are now subject to local building inspection, unless the school district (in which the charter school or the public school is located) has on staff a full time building inspector who will inspect the structure. Where the district employs its own building inspector, the bill allows local governments to do “walk-through” inspections and to provide “recommendations” based on the walk-through inspection.

The bill requires local governments to consider charter school permit applications on a “first priority” basis —meaning that the application goes to the top of the stack and must receive priority scheduling.

School districts and charter schools must notify the affected local government of its intent to purchase or construct a school prior to the purchase of a site or the initiation of the construction process. A meeting must be held with the local government “as soon as possible after delivery of the notice to discuss concerns related to traffic safety, neighborhood impacts and local fees.



HB-40 Substitute
Sunset of Township Provisions

Sponsor: Rep. Susan Lawrence

Bill Status: Passed

ULCT Position: Neutral as amended

Purpose of the Bill: extends to 2010 a sunset provision relating to a provision requiring voter or property owner approval of a municipality's annexation of territory located in a township unless the entire area of the township is annexed; and enacts legislative intent language regarding the sunset of a township provision and regarding townships in first class counties.

Municipal Implication: While the bill initially removed the sunset date on the township provision requiring the annexation of the entire township, the bill was modified at the request of the ULCT to limit this annexation requirement for only an additional four years. The bill also provided intent language that the county and affected municipalities would work together in surveying constituents on the viability of townships. Many cities in Salt Lake County have been asked to annex property that is currently protected by the township provision. This intent language will hopefully avoid a future extension to this statutory provision that extended the viability of townships.

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HB-41
Special District for Police Services

Sponsor: Rep. Ross Romero

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill: This bill: authorizes the creation of a county service area and a local district for extended police protection service by resolution of the legislative body of the participating county and the legislative body of participating municipalities without the necessity of voter approval under certain circumstances; adds extended police protection as a service that a local district may provide; requires the county sheriff to perform for the county service area the functions and duties that the sheriff performs for the county; requires the county and the municipalities included within a county service area for extended police protection to reduce their certified tax rate to offset the cost of extended police protection services; imputes a tax imposed by a police district to the county or municipality included within the district for purposes of the county or municipality's tax limit; adds an alternate method of withdrawing an area within a municipality from the district upon resolution of the municipal legislative body and a vote of voters within the municipality.

Municipal Implication: This bill was never introduced, but failed in previous years due to the concerns expressed by the Utah League of Cities and Towns and the Utah Police Chiefs Association. While we recognized the coordination problem between separate municipal police departments, there were several problems regarding local control of police services that need to be worked out before this bill will be viable. THIS BILL DID NOT PASS.

Utah League of Cities and Towns



HB-44
Additional State Retirement Benefit

Sponsor: Rep. Lou Shurtliff

Bill Status: Did Not Pass

ULCT Position: Neutral

Purpose of the Bill: This bill increases the retirement allowance of members of the Public Employees' Contributory and Non-Contributory Retirement System by providing a years of service factor of 1.5% per year of service prior to July 1, 1975

Municipal Implication: The bill has been opposed by the Utah League of Cities and Towns for many years do to the fiscal impact on local government retirement plans, but as years continue to pass the fiscal impact continues to dwindle. As such, the ULCT Policy Committee took a position of neutrality for the first time. Even without our opposition the bill failed, due to the fiscal impact on the state's retirement system.

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Please Visit www.ulctleg.org and follow the legislative links



HB-51

Electronic Payments to Local Government Entities

Sponsor: Rep. Joe Murray

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: This bill authorizes counties, municipalities, and independent special districts to accept electronic payments and to charge an electronic payment fee

Municipal Implication: The bill outlines that cities and towns may accept electronic payment of funds which the municipality could have received through another payment method. The bill also allows a city to charge a fee for the electronic payment service so long as another payment method is still offered. The bill does not stipulate the minimum of maximum electronic payment fee, but intimates that it should only defray the cost of the service.



HB-73
Local Referendum Requirements

Sponsor: Rep. Dave Hogue

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill: This bill would have attempted to address what may be a statutory conflict with the Utah Constitution by prohibiting a local law challenged by a referendum from having force or effect until it is approved by voters; and clarified when that law will take effect if it is approved by the voters.

Municipal Implication: The bill would have clarified that if an ordinance passed at the local level is then subjected to a citizens' referendum, the ordinance would be prohibited from going into effect until the resolution challenge had been resolved. Because a referendum can only be voted on in general elections, some local ordinances might have had to wait as long as two years from the time they were passed by the local governing body before they could go into effect.

This issue became of concern to planners because of the potential for opening the door to possible stymieing of planning decisions by small groups of citizens who might now view this tool as a way of greatly delaying development proposals. Lost in the discussion was a provision in the current law which says, "Local law' does not include individual property zoning decisions." The question then becomes, what is an individual property zoning decision – an administrative action, legislative action, or quasi-judicial?

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HB-75

Government Records Access and Management Taskforce

Sponsor: Rep Doug Agard

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: This bill creates a legislative taskforce to study the issues with the Government Records Access and Management Act. Several issues that have been included as potential items of discussion include: protection of public safety employee personal information, the composition of the records review committee, changes to the fees that can be imposed by governmental entities for reviewing and redacting information, and any other issue the taskforce wishes to discuss.

Municipal Implication: Several cities and towns have had problems with abuses to the “GRAMA” act and have expressed a desire to study possible changes to the statute in the coming year. This bill should help accomplish those goals.



HB-81

Workers Compensation Coverage of Fire Dept. Employees

Sponsor: Rep. Joe Murray

Bill Status: Did Not Pass

ULCT Position: Opposed

Purpose of the Bill: This bill: provides for a presumption for purposes of workers' compensation that certain occupational diseases are employment related for fire department employees.

Municipal Implication: This bill did not pass, but the various firefighter associations continue to run this legislation. In essence, the bill would change the presumption that various forms of cancer among firefighters is work related, and therefore make them eligible for workers compensation benefits. This change in presumption for occupation diseases would make firefighter employee benefit packages extremely expensive to municipality.

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HB-94 Substitute
Youth Correction Amendments

Sponsor: Rep. Carol Spackman-Moss

Bill Status: Did Not Pass

ULCT Position: Support

Purpose of the Bill: This bill would have prohibited the Division of Juvenile Justice Services, within the Department of Human Services, from placing a minor in youth correction facilities (group homes) located within a single family residential zoning district of a city or county if: the minor has been convicted of, or adjudicated for, a violent offense; and the city or county allows certain division facilities that provide services to a minor convicted of, or adjudicated for, a violent offense to be established in an area of the city or county outside of a residential zoning district.

Municipal Implication: Several cities and towns have been experiencing problems with the placement of violent offenders in group homes that are located in single family residential areas. Often times the neighbors and constituents have been complaining about the potential danger this may pose on surrounding homes. This bill would have required the Dept. of Juvenile Justice to place violent youth offenders outside of a residential zone. If the city did not make accommodations for such facilities in non-residential zones then the Department of Juvenile Justice could have placed the violent offender in a group home located in a single family residential zone. THIS BILL DID NOT PASS



HB-105
Construction Filing Amendments

Sponsor: Rep. Mike Morley

Bill Status: Passed

ULCT Position: Neutral

Purpose of the Bill: During the 2004 State legislative session, House Bill 136, Electronic Filing of Preliminary Lien Documents was passed and put into law. In addition, in the 2005 session, HB 105 1st Substitute passed with modifications to HB 136. Among other things, these bills **require** building permit issuing government entities to **transmit the building permit information into a centralized, statewide Construction Registry.**

Excerpt from HB 136:

“For a construction project where a building permit is issued, within 15 days after the issuance of the building permit, the local government entity issuing that building permit shall input the data and transmit the building permit information to the database electronically via the Internet or computer modem or by any other means and such information shall form the basis of a notice of commencement.”

There is very basic information concerning the State Construction Registry located on the following website: www.scr.utah.gov

Municipal Implication: The Division of Occupational and Professional Licensing encourages you to **begin sending your building permit data as soon as possible** so the state is able to ensure a seamless implementation.

There are three options for providing building permit data to the State Construction Registry:

1. **Quick, Easy and Automated** -- For detailed information on this option, please see the following website:

<https://test.secure.utah.gov/cnr/public/validateCityExportPage> .

2. **Online Entry** — Enter the building permit data into the Construction Registry online

3. **Fax** -- Fax a copy of the completed building permit directly to Utah Interactive at 1-800-585-1534 for entry into the Construction

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HB-107
Amendments to Tax, Fees, and Charges

Sponsor: Rep. Wayne Harper

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: This legislation defers full implementation of the Streamlined Sales Tax proposal (SST) until July 1, 2006. There is a provision that if the tax commission and the legislature jointly determine that “off-the-shelf” software is generally available that a special session would be called to enact an earlier date.

Municipal Implication: While the bill has little immediate impact on cities and towns in Utah. The general trend toward internet and catalog sales continues to grow. Without the full implementation of streamlined sales tax the ability to capture sales tax from remote sales remains evasive. There is a good chance that the work of the 2005 interim taskforce on taxation will be addressing many of the issues surrounding streamlined sales tax, and special session action on this issue is possible.



HB-113 Substitute
Government Boundary Changes

Sponsor: Rep. Kory Holdaway

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: This bill modifies the processes and requirements for notifying certain entities when a governmental boundary is created, modified, or dissolved for a county, municipality, special district, local district, redevelopment agency, local school district, or an entity created by interlocal agreement; standardizes the flow of information for entity boundary changes to be through the lieutenant governor and then the lieutenant governor notifies entities needing boundary change information; expands the list of entities notified under certain circumstances to include the Automated Geographic Reference Center, State Tax Commission, state auditor, county recorder, county surveyor, county auditor, and county attorney.

Municipal Implication: Municipalities will now have a single method of notifying the State of Utah of any boundary change. Before the passage of this bill annexations, disconnections, incorporations and other boundary changes all had different methods of notifying state agencies of the changes. This bill will streamline that process and send all notification through the lieutenant governor's office. The bill also changes the time frame of notification from 45 days to 30 days from the date of the change in boundary, and clarifies the accompanying documents that must be submitted with the notification.

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HB-126

Amendments to Facilities with Regional Impact

Sponsor: Rep. Greg Hughes

Bill Status: Did Not Pass

ULCT Position: Support

Purpose of the Bill: This bill would have required counties and municipalities to consider several factors in determining whether to approve a land use application for a facility with a regional impact. These factors are generally considered anyway, but are not necessarily stipulated in municipal ordinances or in state statute.

Municipal Implication: This bill did not pass, so there will be no immediate implication. The issue of siting regional facilities is, however, becoming a major issue especially along the Wasatch front. Past legislative attempts at solving the issue of siting of regional facilities included arbitration panels to be formed between land-use authorities and service providers, as well as possible changes to the standard of review on land use appeals. Obviously the ULCT considered many of those ideas troublesome. We expect more legislation of this nature to surface as the population continues to grow both number and density.



HB-199
Special Election Dates

Sponsor: Rep. Dave Hogue

Bill Status: Did Not Pass

ULCT Position: Opposed

Purpose of the Bill: H.B. 199 is a land use bill that is proposed to offer flexibility to local governments in setting dates for special elections to decide land use referenda. The bill was, however, very general in defining what a “land-use decision” was, and would have conflicted with the Land Use and Development Management act rewrite (SB-60).

Municipal Implication: If this bill passed, it would have been antagonistic to vested private property rights and dramatically change the dynamics of land use entitlements. The bill also implied that the voters could refer to a special election land use matters as trivial as a building permit. The bill failed to address the vested rights doctrine, first pronounced in the *Western Land Equities* case which was codified in the LUDMA Task Force bill (SB-60), and the bill failed to acknowledge the subtle differences among legislative, administrative and quasi-judicial decision making, especially in land use law.

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HB-207 Substitute
Prescriptive Easements

Sponsor: Rep Greg Hughes

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill: Initially, this bill would have required a person seeking to create a prescriptive easement to file notice with the county recorder, and codified the period of time necessary to establish a prescriptive easement. The bill also would have required an owner of real property establishing a prescriptive easement to compensate the owner of the affected property. The substitute bill was changed, and was more narrowly tailored, but still posed problems the establishment of prescriptive easements.

Municipal Implication: This bill would have called into question the legitimacy of many municipally held prescriptive easements, especially as it pertained to the establishment of trails, roadways, and lot lines. The bill, initially would have required notice of the intent to form a prescriptive easement, which would have nullified the practical application of this tool. Since prescriptive easements are considered continuous and notorious uses, the ULCT held the position that if notice was required the prescriptive easement would no longer be “prescriptive” and would simply be an “easement”. Several utility companies and other political subdivisions expressed similar concerns over this bill. — IT DID NOT PASS



HB-211
Integrity of Election Results Amendments

Sponsor: Rep. John Dougall

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: This bill amends the Election Code to require that voting equipment be capable of producing an auditable, voter verified paper trail of votes cast in order to be certified for use.

Municipal Implication: With the effective date of the Federal Help America Vote Act rapidly approaching (General Election 2006), the state of Utah is working to comply by fully implementing electronic voting. Since many municipalities contract with the county for elections, this bill will simply affirm that any new electronic election equipment that will be used in municipal elections has an auditable paper trail of votes cast.

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HB-219 Substitute
Traffic Enforcement Amendments

Sponsor: Rep. Roz McGee

Bill Status: Did Not Pass

ULCT Position: Support as Substituted

Purpose of the Bill: This bill would have reinstated the authority of municipalities to use automated traffic enforcement tools to help with intersection safety and red light infraction control and neighborhood speed control. The bill required the posting of signs warning drivers of the use of automated traffic enforcement, and ensured that only civil penalties would be imposed.

Municipal Implication: Many cities and towns have requested that the legislature reinstate this authority, but to no avail. It is likely that similar legislation will be pursued in the coming legislative session.



HB-246
Waste Fee Amendments

Sponsor: Rep. Steve Urquhart

Bill Status: Did Not Pass

ULCT Position: Neutral as Amended

Purpose of the Bill: This bill would have increased the municipal waste fees to provide some parity between the regulatory fees paid by commercial and municipal waste facilities. Instead of using the tiered fee system based on waste stream that is currently in place, the bill would have set all DEQ regulatory fees on municipal solid waste at \$0.19 a ton for municipally owned waste facilities. On average, the change in the fee structure would have been a small increase in fees paid by cities and towns.

Municipal Implication: When this bill was initially introduced, it required the municipal waste fee to be increased to \$0.40 per ton. The ULCT was able to negotiate and get the fee down to the \$0.19 a ton on municipal solid waste. The bill did, however, fail to pass the Senate. While the bill did not pass, there has been increasing scrutiny over the services that cities provide and whether or not there are inherent fee or tax advantages that governmental entities have over commercial providers of similar services. This was one in a series of similar bills on this issue. Expect more in the future.

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HB-256 2nd Substitute
Local Government Authority

Sponsor: Rep. Ann Hardy

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: To reinstate the authority of extraterritorial eminent domain to code cities, which was removed during the 2004 Utah Supreme Court Case —*Provo City v. Ivie*

Municipal Implication: H.B. 256 was a compromise bill which reversed the impact of the Supreme Court's 2004 decision in *Provo City v. Ivie*. The *Provo City v. Ivie* case involved an exercise of the power of eminent domain to condemn a necessary public road right of way outside the Provo City limits.

In that case, the Utah Supreme Court reversed the 4th District Court's decision in favor of Provo City, by creating a distinction between charter cities' and code cities' extraterritorial power of eminent domain. The Court ruled that although charter cities have a constitutionally-conferred extraterritorial power of eminent domain for road rights-of-way, code cities do not and must seek legislative authority for a parallel power.

H.B. 256 restores a power that both charter cities and code cities and towns believed they had possessed since statehood. That power is used infrequently, but is an invaluable public good. If challenged, a city must convince the court of both a



HB-266
Changes to the Quality Growth Commission

Sponsor: Rep. Craig Buttar s

Bill Status: Passed

ULCT Position: No Position

Purpose of the Bill: This bill requires that the State Commissioner of Agriculture and the Director of the State Dept. of Natural Resources sit on the QG Commission (before, it was up to the Gov who he appointed from state government), and it requires that at least three of the county and three of the municipal members are from outside the Wasatch Front. The Commission must also report to the Legislative Management Committee when they intend to make an award from the LeRay McAllister Critical Lands Fund that exceeds \$1 million.

Municipal Implication: While the impact is small, the bill will require that new appointments be made to the Quality Growth Commission to comply with the non-Wasatch front representation requirement. Since the LeRay McAllister Fund received additional revenue this year. It is likely that the Quality Growth Commission will be busy with the awarding of grants for land preservation

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HB-289
Authority for Design Build Construction

Sponsor: Rep. Mike Morley

Bill Status: Did Not Pass

ULCT Position: No Position

Purpose of the Bill: The original intent of this bill was to clarify the use of Design-Build procurement by political subdivisions of the state. It was understood that measures would be included to ensure that the bidding and awarding of the contract was done in a fair and open process. The bill was, however, drafted in manner that further restricted municipalities from using different procurement tools for both capital projects and public work projects.

Municipal Implication: The statute is still unclear as to whether Design-Build procurement can be used by a political subdivision of the state (cities and towns). Current state statute requires that a contract be awarded to the “lowest responsive responsible bidder” which becomes an issue when using design-build procurement, since no solid monetary bid is given, and the scope of project can differ greatly between the various firms bidding on the work. It is still understood, that design based procurement can be used so long as it is awarded to the low bidder. Eventually, we expect the legislature will want to define “design-build procurement” and set standards for its use. Issues that will likely be addressed include openness in the bidding process and assessment of project value as compared to price.



HB-312
Municipal Electrical Entities Amendments

Sponsor: Rep. Aaron Tilton

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill: This bill would have required all municipal owned power companies to report on all monthly billing statements which portion of the individuals bill was considered the actual “cost of service” and how much was considered “profit” and being transferred to general fund purposes.

Municipal Implication: The practical application of this bill would have been problematic, and was fairly redundant. Current law already requires that municipalities report any electrical enterprise fund transfers to the general fund be made public during the city’s annual adoption of the budget. Notice of the public meeting on this issue is already statutorily required to be included in the billing statement that goes to all who receive electrical services from the municipal power company. This bill did not pass, but budgeting and notice requirements of municipally owned electrical entities was submitted as a master study item for the 2005 interim period.

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HB-333
Density Credits for Land Donated to School Districts

Sponsor: Rep. Dave Cox

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill: This bill would have required a local land-use authority to give density credits (increase density for a developer) if the developer donated a portion of the developable property to the local school district.

Municipal Implication: This idea posed many problems to local governments. First, the language was not permissive; it simply required that density credit be given to the developer to compensate for loss of developable property that was donated to the school district. There was also no way to bind the school district to actually build a school on the property that was donated, so increased density may be mandated, but in turn the school may turn around and sell the donated property to another developer and all neighborhood park and open space would be lost. Tax implications of the charitable value of the “donation” were being questioned since density credits would be awarded in exchange for the donation, and the list goes on.

This bill did not pass, but was submitted as a master study item for the 2005 interim period.



HB-335 Substitute
Disconnecting Territory From a Municipality

Sponsor: Rep. Craig Frank

Bill Status: Did Not Pass — Watch for Special Session

ULCT Position: Support as Amended

Purpose of the Bill: This bill would have amended a provision relating to the adjustment of a common boundary between municipalities to add a provision that: authorizes a municipality seeking to adjust a common boundary with another municipality to request the other municipality to adjust the common boundary; requires the municipalities to negotiate in good faith; authorizes the requesting municipality to file a petition with the boundary commission requesting the boundary adjustment; and authorizes the boundary commission to allow the boundary adjustment if certain criteria is met.

Municipal Implication: The issue of municipal disconnections continues to grow in the urban areas of the Wasatch front. Often times pitting developers and cities against one another. This bill would have changed the way in which a portion of municipal property is disconnected if the intent is to annex into another adjoining municipality. This bill would have required that the boundary adjustment process be used instead of the disconnection process, and would also place deed restrictions on the property to ensure that the intent is not to simply disconnect or request a boundary adjustment to avoid a jurisdiction's land-use authority. Since a deed restriction is a contract issue, the deed restriction can be changed if the issuing authority decided to do so. This bill did not pass, but is likely to be addressed during the special

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SB-5
Traffic Code Recodification and Revisions

Sponsor: Sen. Sheldon Killpack

Bill Status: Passed

ULCT Position: No Position

Purpose of the Bill: To recodify and consolidate all traffic code related items under a new comprehensive code section. The traffic code was changed from Title 41-6 to Title 41-6a

Municipal Implication: While no substantive changes to traffic code policy were included in this recodification effort, the simple renumbering will require that municipalities and traffic enforcement agencies update the citation and reference books that are being used. This bill had an immediate effective date.

More information on this bill is available on the Utah State webpage. The link to the new code cross reference table is:
<http://www.le.state.ut.us/DocumentsTrafficCodeRecodificationTable.pdf>



SB-8 Substitute
Local Corridor Preservation Funding

Sponsor: Sen. Sheldon Killpack

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: This bill allows counties to adopt a \$10 vehicle registration fee that can be used by the county, municipalities and MPO for future corridor preservation. The bill requires funds to be used on roads of regional significance, which are also on the metropolitan planning organizations long range transportation plan. The funds can also be use for countywide purposes in areas where no MPO exists. A certain portion of the funds can also be used for corridor maintenance.

Municipal Implication: The county option vehicle registration fee provides the financial means for the purchase of essential transportation corridors of regional significance in the State of Utah. The bill also provides a framework for prioritizing projects and involves local government in both the prioritization and preservation of these rights-of-way. The advanced purchase of properties essential to regional transportation corridors, in a market of ever escalating prices and where development is threatening to close off these corridors, demonstrates necessary foresight. State and local governments are not currently effectively preserving property for transportation corridors in the face of increasing development. Unlike the current corridor preservation tool, this funding increase will not be considered a loan from the account, but will rather operate like a grant. The preserved corridor will also be considered as local matching funds for state transportation projects

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SB-25 Substitute
Transportation and Jurisdictional Transfer Taskforce

Sponsor: Sen. Carlene Walker

Bill Status: Passed

ULCT Position: Support as Substituted

Purpose of the Bill: This bill proposed a number of changes to the Land Use section of the code relating to notification of UDOT of any major commercial or residential developments adjacent to state highways. However, they were negotiated out of the bill in deference to the LUDMA effort. The bill requires the UDOT Director to develop “strategic initiatives” for corridor preservation and development of new transportation capacity projects and report them to the State Transportation Commission. The bill also directs the State Transportation Commission to develop a prioritization process for new transportation capacity expansion projects, to be developed in consultation with the MPOs in the state. The bill also establishes a Task Force to look at the issue of transferring the jurisdiction of highways from the state to the locals and vice-versa.

Municipal Implication: Well, it looks like we have our work cut out for us during the interim taskforce period. At this point discussions of new transportation revenue are not being entertained, but the state is redirecting existing state funds into the state system. It is important to note that redirection of existing state funds to state roads does nothing for B&C roads. The interim discussions will focus on municipalities ability to acquire new state roads, and how much money will accompany those roads if they are transferred — Stay tuned!!!

Utah League of Cities and Towns



SB-33
Exemption to Residential Property Tax

Sponsor: Sen. Ed Mayne

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill: This bill would have provided for an exemption from taxation of a portion of the fair market value of a qualifying secondary residence and establishes procedures and requirements for claiming an exemption for a qualifying secondary residence. The bill also allowed for a certified tax rate adjustment to compensate for the new property tax valuation.

Municipal Implication: This bill has been introduced on several occasions and has always been opposed by the ULCT. The bill failed again during the 2005 general session. The argument that is being used to promote the legislation is essentially that if a secondary residence is not using municipal services then it should not have to pay the full property tax value. The problem that continues to arise is the inherent tax increase on primary residential property owners to compensate for the lost revenue associated with the decrease in tax assessed valuation for secondary residences. Look for the bill again in the coming years.

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SB-44 Substitute
Government Records Amendments

Sponsor: Sen. Carlene Walker

Bill Status: Passed

ULCT Position: Support, ULCT Initiated

Purpose of the Bill: This bill remedies an unintended consequence of the Government Records Management Act: a private party's use of GRAMA to harass. The bill changes several definitions including the definition of a person to include people working in concert. The bill also allows governmental entities to stagger response times to voluminous requests, and also clarifies the definition of a voluminous request of records.

Municipal Implication:

The bill does the following:

- Modifies the definition of a "Person" to include people acting "in concert"
- Allows a government, in the face of such requests, to open up the files for private inspection,
- Adds a duty on a government entity to guard against the loss of public records
- Allows a government to provide records access through electronically produced or scanned documents.
- Clarifies that a request for a "voluminous quantity of records" includes multiple requests for a substantial number of documents made within a short time (5 days) of one another.
- Provides a process for either party to appeal from the decision of the GRAMA records committee.



SB-60 2nd Substitute
Land Use Development and Management Act Amendments

Sponsor: Sen. Greg Bell

Bill Status: Passed

ULCT Position: Support, ULCT Initiated

Purpose of the Bill: This bill is the culmination of a multi-year process to evaluate and resolve a large number of perceived issues/problems with the administration of the prior Land Use Management and Development Act (LUDMA), originally enacted in 1992 and amended in virtually every year thereafter.

Despite the many amendments throughout the years, the development community (realtors, lenders, surveyors, homebuilders etc.), along with the Private Property Ombudsman, had amassed a long list of complaints about local land use administration in Utah. Their individual stories were compelling and reminiscent of the parade of bad and embarrassing stories that produced the impetus for the Impact Fees Act throughout the 1990s. The local regulatory community (elected officials, planners, city attorneys, county recorders, etc.) also perceived that the law needed reform and hoped to avert the antagonism of the Impact Fees Act wars. Former Farmington Mayor, State Senator and private developer, Greg Bell convened a non-legislative task force comprised of all stake holders in the local development matrix. The League of Cities and Towns facilitated and coordinated the task force. The challenge was to reach consensus on issues where there was conflict.

CONTINUED ON NEXT PAGE>>>>

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SB-60 2nd Substitute
Land Use Development and Management Act — CONT.

The Task Force proposed 28 areas for reform of LUDMA and succeeded in reaching consensus on 25 of the 28 topics. The consensus resulted in literally scores of changes to LUDMA, the more notable of which follow.

SB60 codifies well established common law land use principles. Among them are the requirements for exactions (nexus and proportionality), established in the *Dolan v. Tigard* OR decision; the law of vested rights, established in the *Western Land Equities Case*, the “right to rebuild” principles for non-complying structures/non-conforming uses that were suggested in the *Rock Manor* case and the law limiting local discretion with respect to conditional use permits, established in a myriad of cases in Utah.

Against a backdrop of pressure to require that all land use applications be process within a fixed period of time (60-90 days), the task force agreed to remove many of the process constraints of the prior law and to grant a fair amount of flexibility for local governments to adapt their codes to expedite development review and approval. As such, most local codes now require more notice and process than the state law requires and can now be revised to streamline the process required for especially routine applications.

SB60 appears to change more than it actually does because cleans up, reorganizes and consolidates many existing provisions in the law.

Separate and complete summaries of the bill are available through the ULCT, the Utah APA and the Utah Private Property Ombudsman.



SB-106 Substitute
Utah Religious Land Use Act

Sponsor: Sen. Dave Thomas

Bill Status: Passed

ULCT Position: Support as Substituted

Purpose of the Bill: This bill restricts government entities from applying or enacting land use regulations that impose a substantial burden on a person's free exercise of religion. The bill does, however, permit government to impose land use regulations that substantially burden a person's free exercise of religion only where the government can show that the land use regulation is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. The bill also authorizes a person to seek injunctive or declaratory relief if government fails to remedy a substantial burden imposed on religious expression by a land use regulation and also allows a person to use the defense that a government entity's action creates a substantial burden on the free exercise of religion in judicial and administrative hearings if an notice of claim has been filed, and finally provides government entities with the opportunity to remedy the substantial burden before being subject to injunction or declaratory relief.

Municipal Implication: This bill is intended to offer the same protections as the federal Religious Institutions Land Use Protection Act, but to provide a “kinder and gentler” process for resolving RILUPA issues. RILUPA creates a statutory remedy for a constitutional tort which can arise when a local land use ordinance imposes a substantial burden on a congregation’s free exercise of religion, as that exercise is expressed in structures or practices on their land. Unlike RILUPA, there are no “prevailing

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SB-107
Licensure and Regulation of Programs and Facilities

Sponsor: Sen. Tom Hatch

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill: This bill requires applicants for a license to operate a residential treatment program (half-way house) to provide a description of the program and notice of intent to operate a residential treatment program to the governing body of the city or county where the program intends to operate. The bill also provides that a local government may request that the office designate a local government employee as a certified local inspector for the facility and describes the powers of, and restrictions on, a certified local inspector and the local government relating to a certified local inspector.

Municipal Implication: This bill was pursued at the request of several cities and towns which have had an influx of residential treatment facilities within their boundaries. The bill provides additional inspection and regulatory authorities to those local governments in regard to the treatment facilities. The new authority includes: verification of an emergency response plan, proof of licensure by the State of Utah, access to medical care, implementation of transportation safety measures, proper securing and storing of medication, and appropriate training of staff, etc. This will hopefully, help municipalities with infractions and community disruption associated with residential based treatment facilities.



SB-114
County and Municipal Zoning Regarding Billboards

Sponsor: Sen. Mike Waddoups

Bill Status: Passed

ULCT Position: Neutral

Purpose of the Bill: This bill eliminates the conditions under which a local government may allow a non-conforming billboard to be rebuilt or relocated. This is a billboard industry bill, which was designed to counteract a scenario in which the owner's land lease expires on a non conforming billboard. The billboard owner may relocate the billboard. The property owner/landlord has only one option: lease again to the owner, or let the structure fall into decay. The bill also provides that if a local government issues a permit for a billboard, and if a state permit is required for the billboard as well, the billboard applicant has 30 days to apply for the state permit, and then gets 180 days after the state issues the permit before the local government can say the local permit has expired.

Municipal Implication: There is little impact on municipalities regarding this bill. The bill really centers around the leasing arrangements between a landowner and billboard company. The bill simply does not allow the transfer of a conditional use for a billboard from one owner to another owner. The bill also stipulates that only the owner or owners agent can rebuild or modify a billboard approved under a conditional use, essentially removing rebuild or improvement authority from the property owner leasing the space.

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SB-127
Tax Fee and Charge Amendments

Sponsor: Sen. Lyle Hillyard

Bill Status: Passed

ULCT Position: Support

Purpose of Bill: This legislation was this year's Streamlined Sales Tax (SST) technical "cleanup" legislation. Specifically, it clarified the taxation status of installation charges, mailing costs and assorted other issues that had arisen last summer and resulted in the initial delay of SST. At issue were questions about unintended tax increases associated with adoption of the national SST agreement. In large measure the status quo was retained and clarified.

Municipal Implication: There was no municipal implication associated with this measure.



SB-139 Substitute
Wage Provisions

Sponsor: Sen. Howard Stephenson

Bill Status: Passed

ULCT Position: No Position

Purpose of the Bill: This bill prohibits a county, city, or town, when contracting for the direct purchase of goods and services, from giving a preference to a person who pays that person's employees a wage that exceeds the federal minimum wage. The bill also clarifies that these restrictions will apply to any entity created by a city, town, or county.

Municipal Implication: Under municipal procurement, the bill simply removes the ability for cities and towns to consider a “livable wage” when awarding a contract for the direct purchase of goods and services. This bill continues to limit the factors for awarding a contract for services or goods to essentially low cost, ability to complete the project, and project scope.

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SB-152 Substitute
Business License Fees

Sponsor: Sen. Mike Waddoups

Bill Status: Passed

ULCT Position: Neutral as Substituted

Purpose of the Bill: Requires municipal rental property disproportionate business license fee studies to be renewed every 4 years and requires the study to include potential cost savings associated with increased density, and requires that a new study be completed by January 1, 2007 if the current fee is greater than \$17.

Municipal Implication: There are several municipal issues associated with this bill including and ever increasing legislative propensity to require a full cost accounting of local government fees, as well as a full explanation and nexus of how municipal fees are being calculated and used. As fees become a larger portion of municipal budgets, expect additional examination of fee studies and rates (impact fees, business license fees, franchise fees, etc.) The ULCT was able to negotiate a compromise with the sponsor and interested party to remove language concerning “full cost accounting” and to also provide adequate time between before new fee studies are required.



SB-153
Tax Reform Taskforce

Sponsor: Sen. Curt Bramble

Bill Status: Passed

ULCT Position: Neutral

Purpose of the Bill: This bill creates the 2005 interim taskforce to study issues related to both state and local taxes. Subject items include: sales tax redistribution, calculation and dependence upon the property tax, streamlined sales tax implementation, Redevelopment Agencies, and Governor Walker's tax recommendations that were submitted to the legislature in November of 2004.

Municipal Implication: It will be a busy summer for the ULCT and cities and towns in Utah. This taskforce will be discussing issues that are extremely important to every city and town in the state of Utah. The ULCT will be working closely with the taskforce to ensure that our concerns are addressed before any comprehensive legislative package is advanced to the full legislative body. We encourage all of you to also work closely with the ULCT and your legislators on these issues.

To follow the issue closely be sure to watch the ULCT legislative webpage: www.ulctleg.org

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SB-154
Public Safety Retirement Amendments

Sponsor: Sen. Chris Butters

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill: This bill: creates the Public Safety Retirees' Cost-of-Living Increase Restricted Account within the State General Fund; specified the uses of the restricted account monies; provides a formula that may require the Utah State Retirement Office to deposit certain premium tax revenues in the Public Safety Retirees' Cost-of-Living Increase Restricted Account; provides certain administrative powers to the Utah State Retirement Office; and transfers monies between restricted accounts.

Municipal Implication: This bill would have created a restricted account for a public safety retirees COLA increase from 2.5% to 4%, but the proposed increase in COLA would not have been funded by the state and was instead structured as an unfunded mandate to municipalities who contribute to the state retirement system. The increased benefit would have cost local government an average of 3% of the total municipal retirement benefit package. The statewide fiscal impact to cities and towns was approximately \$4.5 Million.

This bill did not pass.



SB-183 5th Substitute
Public Transit District Funding Amendments

Sponsor: Sen. Greg Bell

Bill Status: Did Not Pass

ULCT Position: Neutral as Substituted

Purpose of the Bill: The bill authorized a county to impose a sales and use tax of .25% for public transportation costs and improvements if a single public transit district has 60% or more of the population of the county residing within the public transit district boundaries; The bill also authorized a county that has 60% or more of the population residing within a single public transit district's boundaries to submit a proposal to the county's registered voters at a general election or at a special election on a municipal general election date to impose a sales and use tax of .25% for public transportation costs and improvements; And lastly it provided that if the county's registered voters vote to approve becoming a part of the public transit district: the county, at-large, shall be annexed into the public transit district and a countywide sales tax of .25% shall be imposed for public transportation

Municipal Implication: With the discrepancies of county-wide funding for the Utah Transit Authority. This bill was drafted to get all counties with in the transit district to pay the full 0.50% sales tax to the transit district. The bill would have required the removal of the 1/4 of a 1/4% sales tax in Salt Lake County that had been diverted to road projects, as well as a public vote, and possible imposition of an additional 1/4% sales tax in Utah county. Expect to see more transit district funding equalization efforts in the years to come.

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SB-184 2nd Substitute
Redevelopment Agency Amendments

Sponsor: Sen. Curt Bramble

Bill Status: Passed — Sent to Tax Taskforce

ULCT Position: Neutral as Substituted

Municipal Implication:

- No extensions of RDA projects
- No expansions existing RDA projects
- date for using the haircut money for cultural and recreation projects has been moved up to July 1, 2005 for pledging money and December 31, 2005 for beginning construction (The date was moved 6 months in both cases)
- The Taxing Entity Committee will have the right to approve the finding of blight following the completion of the blight study.
- A moratorium on RDA projects for one year, July 1, 2005 through June 30, 2006
- Only retail projects initiated by the RDA board (survey resolution approved) by February 15, 2005 and the blight study finished by June 30, 2005 can continue.
- The use of eminent domain by the RDA has been eliminated; the city's power of eminent domain still exists
- The assessed valuation on any retail in an EDA project cannot be counted as increment and used by the RDA – the revenue generated must be transferred to the appropriate tax entity
- The use of tax increment for stadiums and arenas has been eliminated

RDA issues will be studied in the interim as a sub-committee of a Revenue and Taxation Task Force. Issues to be discussed will include:

- The reinstatement of eminent domain authority by an RDA
- The reinstatement of extensions and expansions of existing RDA projects
- The use of RDA for retail-centric projects
- The distinction between rehabilitating existing retail and creating new retail within an RDA
- The composition of the Taxing Entity Committee
- The definition of blight



SB-185
Amendments to Multi Channel Video Tax Act

Sponsor: Sen. Tom Hatch

Bill Status: Did Not Pass — Sent to Tax Taskforce

ULCT Position: Support

Purpose of the Bill: This bill would have expanded the definition of multi-channel video or audio service provider to include satellite service, it would have allowed for the imposition of an additional local tax on a purchaser of multi-channel video or audio service and would have provided procedures for a county or municipality to elect to participate in the distribution of the revenues generated by the additional tax.

Municipal Implication: This bill was permissive, and allowed local governments to “trade-in” the traditional cable franchise fees for a gross receipts tax on both cable and satellite service. With the increase market penetration of satellite service, the broader tax base would have provided a growing and more stable revenue tool for municipalities. Since franchise arrangements are protected under federal statute, the bill also provided an option to go back to the cable franchise arrangement if desired. The bill did not pass, but will be studied in the interim tax taskforce.

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SB-191
Political Subdivisions — Truth in Government Competition

Sponsor: Sen. Ron Allen

Bill Status: Did Not Pass

ULCT Position: Opposed

Purpose of the Bill: This bill would have required counties, municipalities, and special districts to advertise their intent to provide a new service or new facility; It also would have required counties, municipalities, and special districts proposing to provide a new service or new facility to hold a public hearing allowing the public to comment on whether the proposed new service or new facility would compete with existing local businesses

Municipal Implication: Although this bill failed, it certainly demonstrates the perception that several legislators have about the services municipal government provides. First, the bill would have required a municipality to have a dedicated an open and public meeting before any new municipal services or facility would be built. The public meeting would have been conducted to assess the impact that such a services would have on the private sector's ability to continue to provide a similar services. Secondly the bill would have required a "truth in government competition" notice to be put in a paper of general circulation and notice of meetings posted as outline in the open and public meetings act, obviously a costly Endeavour. There are several legislators who believe that municipalities are competing with the private sector to provide several services and feel that it is not the role of government to provide "proprietary services". The bill outline several such services including recreation centers, swimming pools, refuse collection, ambulance services, etc.

The League staff believes that we will continue to grapple with this issue as municipalities continue to provide the services their constituents have come to expect. This subject of this bill will be a major issue in the years to come.

Utah League of Cities and Towns



TASKFORCES AND MASTER STUDY ITEMS

TASKFORCES:

1. Tax Taskforce
2. Water Taskforce
3. Highway Funding and Jurisdictional Transfer Taskforce
4. Government Records (GRAMA Taskforce)
5. Tourism Taskforce
6. Privately Owned Health Care (IHC) Taskforce

MASTER STUDY ITEMS:

1. Full cost accounting for the Utah Dept. of Transportation
2. Local funding participation of state road infrastructure
3. Jail Reimbursement
4. Placement of group homes
5. Private impact of local land-use restrictions
6. Water and land rights of cities
7. Disposition of ZAP and RAP taxes
8. Municipal utility rates and fees
9. Developer density credits for land donated to schools

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