2006 General Legislative Session Update

Utah League of Cities and Towns

The 2006 Legislative Session

CAUTION:
LAWS UNDER CONSTRUCTION

April 2006

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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 Affairs 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 rogertew@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.

Neil Abercrombie, Policy Analyst nabercrombie@ulct.org

Neil coordinates the League's budget database. He assists individual communities with budget and policy research issues and handles fiscal policy research questions and general municipal government public policy.

Cameron Diehl, Research Analyst cbdiehl3@yahoo.com

Cameron monitors state legislation relating to municipalities and conducts research on the impact of both state and local public policy.

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HOW DOES THE ULCT WORK?

GENERAL MEMBERSHIP-242 MUNICIPALITIES
PROPOSES RESOLUTIONS AND MAKES RECOMMENDATIONS

↓

RESOLUTION COMMITTEE
ADOPTS AND APPROVES RESOLUTIONS SUBMITTED BY GENERAL MEMBERSHIP

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LEGISLATIVE POLICY COMMITTEE
COMPOSED OF ELECTED & APPOINTED OFFICIALS, CONSIDERS ALL LEGISLATION PERTAINING TO MUNCIPAL GOVERNMENT

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BOARD OF DIRECTORS
DETERMINES THE LEAGUES FINAL POSITION
CAN DELEGATE DECISION MAKING AUTHORITY TO OTHER BODIES UNDER CERTAIN CIRCUMSTANCES

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EXECUTIVE BOARD
DETERMINES THE LEAUGE'S LEGISLATIVE POLICY POSITIONS WHEN DELEGATED TO DO SO

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EXECUTIVE DIRECTOR/LEGISLATIVE TEAM
INTERACTS WITH LEGISLATORS ON BEHALF OF THE ULCT, CARRIES OUT THE POLICY DECISIONS MADE BY THE LPC AND BOARD

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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.

2005-06 ULCT LEGISLATIVE POLICY COMMITTEE

Wasatch Front Elected Officials

Joe Johnson, Mayor (2nd Vice President) -- Bountiful
Paul Cutler, Council Member -- Centerville
Lori Miller, Council Member -- Clinton City
Bruce Jones, Council Member -- Cottonwood Heights
Darrell Smith, Mayor -- Draper
Scott Harbertson, Mayor -- Farmington
Sid Young, Council Member -- Farmington
Eileen Moss, Council Member -- Fruit Heights
J. Lynn Crane, Mayor -- Herriman
Neka Roundy, Mayor (Board Member) -- Kaysville City
J. Stephen Curtis, Mayor (President) -- Layton
JoAnn Seghini, Mayor (Past President) -- Midvale
Krista Dunn, Council Member -- Murray
Brandon Stephenson, Council Member -- Ogden
Bruce Burrows, Mayor -- Riverdale
Jeff Richie, Mayor -- Roy City
Eric Jergensen, Council Member -- Salt Lake City
Tom Dolan, Mayor (Past President) -- Sandy City
Bryant Anderson, Council Member -- Sandy City
Steve Fairbanks, Council Member -- Sandy City
Dennis Tinney, Council Member -- Sandy City
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Utah League of Cities and Towns

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Bob Gray, Mayor -- South Salt Lake
Bill Anderson, Council Member -- South Salt Lake
Fred Panucci, Mayor -- Syracuse City
Dan Hammon, Council Member -- Syracuse City
Lurlen Knight, Council Member -- Syracuse City
Russ Wall, Mayor -- Taylorsville
Morris Pratt, Council Member -- Taylorsville
Dennis Nordfelt, Mayor -- 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
Randy Fitts, City Manager -- Holladay
Craig Hall, City Attorney -- Holladay
Gary Crane, City Attorney -- Layton
Lee King, City Administrator -- Midvale
Michael Wagstaff, Deputy for Legislation & Communications -- Murray
Jan Wells, Chief of Staff -- Murray
Bill Cook, Executive Director of Council -- Ogden
Mark Johnson, Management Services Director -- Ogden
Bruce Talbot, Community and Economic Development- Pleasant View
Chris Davis, City Manager -- Roy City
Rocky Fluhart, City Manager -- Salt Lake City
Lynn Pace, Deputy City Attorney -- Salt Lake City
John Hiskey, Deputy Mayor -- Sandy City
Ricky Horst, City Manager -- South Jordan
John Geilmann, City Attorney -- South Jordan
Scott Darrington, City Manager -- South Ogden
Mark Christensen, City Manager -- Washington Terrace
Richard Davis, City Manager -- West Point
Nicole Cottle, Deputy City Attorney -- West Valley City
Gary Uresk, City Administrator -- Woods Cross

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Lou Ann Christensen, Mayor -- Brigham City
Howard Madsen, Mayor -- Coalville
Mike Leonhardt, Council Member -- Garden City
Fred Oates, Mayor -- Harrisville City
Pat Manis, Council Member -- Hinckley
Douglas Stipes, Council Member -- Hyrum
Jeff Acerson, Mayor -- Lindon
Steven Taylor, Council Member -- Logan
Dave Sakrison, Mayor (Board Member) -- Moab
Chesley Christensen, Mayor -- Mt. Pleasant
Jerry Washburn, Mayor -- Orem City
Shiree Thurston, Council Member -- Orem City
Dana Williams, Mayor -- Park City
Candy Erickson, Council Member (Board Member) -- Park City
Joe Piccolo, Mayor (Past President) -- Price
Lewis Billings, Mayor (1st Vice President) -- Provo
Larry Lunnen, Council Member (Board Member) -- Richfield City
E. Fritz Boyer, Mayor -- Springville
Dan McArthur, Mayor (Past President) -- St. George
Suzanne Allen, Council Member (Board Member) -- St. George
Mary Edwards, Council Member -- Stockton
Janice Galbraith, Mayor -- Sunset
JoAnn Cowan, Council Member (Board Member)-- Vernal

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Don Tingey, City Administrator -- Brigham City
Chris Hillman, City Administrator -- Eagle Mountain
Mark Anderson, City Manager -- Heber City
Mark Sorenson, City Attorney -- Logan
Randy McKnight, City Administrator -- Nephi City
Jim Reams, City Manager -- Orem City
Tom Bakaly, City Manager -- Park City

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Raylene Ireland, Director of Communications -- Provo
Wayne Parker, Chief Admin Officer -- Provo
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Shawn Guzman, City Attorney -- St. George
Richard Woodworth, City Manager -- Tremonton
Ken Bassett, City Administrator -- Vernal

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 Neil Abercrombie at the League office, 801-328-1601.

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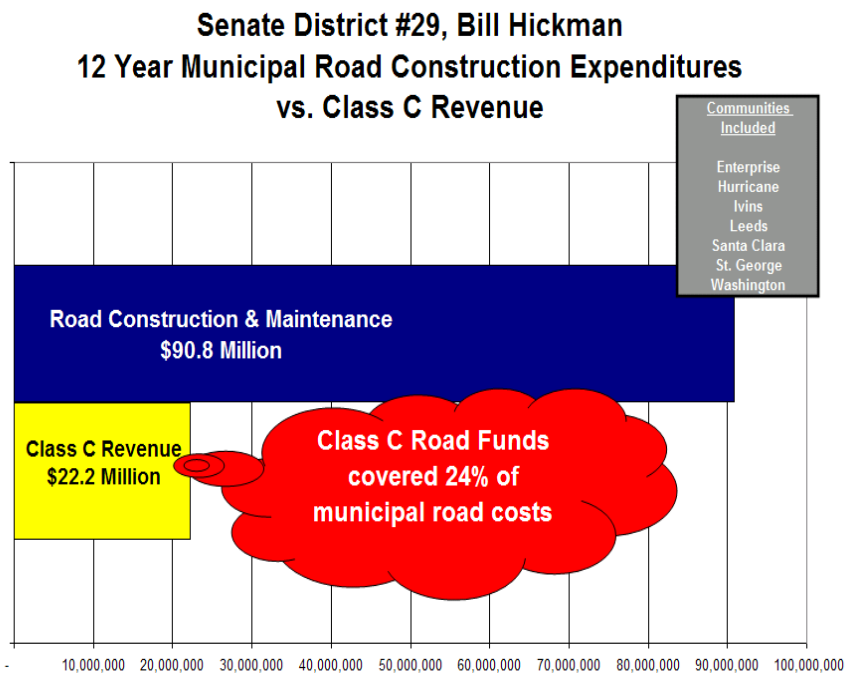
WHAT DOES IT LOOK LIKE?

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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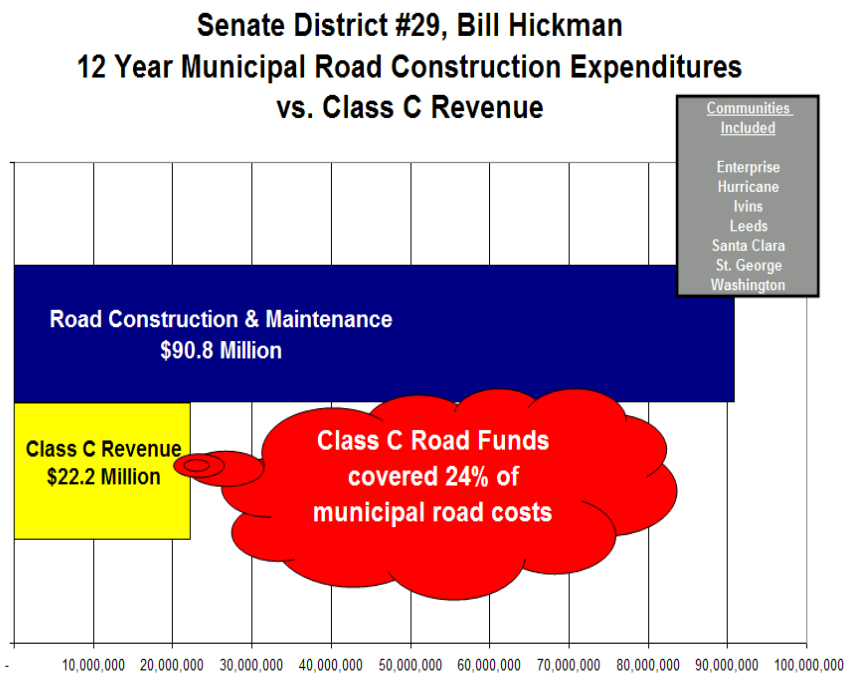

Utah League of Cities and Towns

2006 Legislative Bill Summary

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2006 Legislative Bill Summary

Want to See the Full Text?
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HB-6 Substitute
Utility Improvement Districts Revisions

Sponsor: Rep. David Ure

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill modifies provisions related to how an assessment on property for the underground conversion of overhead utilities is to be calculated; modifies the requirements for notice of a proposed improvement district and assessment; and modifies provisions relating to the underground conversion of overhead utilities.

Municipal Implication:
This bill allows a municipality to create a special improvement district for utility improvements and gives additional flexibility in the assessment method that is utilized to pay for the proposed utility improvements. Prior to this legislation the statute only allowed an assessment to be levied based on proportionate square footage of a given lot within the improvement district. The new language allows for assessments based on area, footage, assessed value, taxable value, number of connections or any combination of those methods.

In addition, the bill outlines and clarifies the noticing requirements associated with the creation of such a district.

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Municipal Implication:
This bill allows a municipality to create a special improvement district for utility improvements and gives additional flexibility in the assessment method that is utilized to pay for the proposed utility improvements. Prior to this legislation the statute only allowed an assessment to be levied based on proportionate square footage of a given lot within the improvement district. The new language allows for assessments based on area, footage, assessed value, taxable value, number of connections or any combination of those methods.

In addition, the bill outlines and clarifies the noticing requirements associated with the creation of such a district.

Utah League of Cities and Towns

HB– 9 Second Substitute
Workers' Comp Coverage of Firefighters & Drug Officers

Sponsor: Rep. Joseph Murray

Bill Status: Passed

ULCT Position: Support as substituted

Purpose of the Bill:

The original bill, which was opposed by the ULCT, provided an affirmative presumption for purposes of workers' compensation that certain occupational diseases (various types of cancer) were employment related for fire department and drug taskforce employees. The substitute bill, which we supported, appropriated funds to study whether certain types of cancer can be found disproportionately in active firefighters and drug taskforce members and can be shown to be contracted in the line of duty.

Municipal Implication:

The original bill would have substantially increased the cost of Workers Compensation coverage for Drug Taskforce Officers and Firefighters with no scientific proof that certain types of cancer presumptively arose out of, and in course of, the line of duty for such employees. The substitute appropriates $500,000 over a two year period to study this issue.

Want to See the Full Text?
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HB-12
Amendments to GRAMA

Sponsor: Rep. Doug Aagard

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill clarifies the notice process for collecting and utilizing protected personal information by a governmental entity. The bill also clarifies the protected statues of personal communication prepared or received by an employee of a governmental entity. Lastly the bill requires governmental entities to adopt an approved retention schedule for governmental records or utilize the states retention schedule as a default.

Municipal Implication:
This bill clarifies the process that already required cities and towns, which collect private or controlled records, to file a statement with the state archivist to explain how those records are being used. In addition, the bill requires governmental entities to disclose how information that is considered classified or protected is going to be used, the consequence of refusing to furnish the information, and how the information will be shared with others. The disclosure must be posted in all places where such records are collected and included on documents that will be considered as protected or classified.

The bill includes personal communication of governmental officials as a protected record.

Lastly the bill requires governmental entities to file a proposed record retention schedule with the state archivist for approval. Once approved that retention schedule can be used by the city or town. If the city or town has not adopted an approved retention schedule, they are governed by the state adopted retention schedule.

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Amendments to GRAMA

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Bill Status: Passed

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Utah League of Cities and Towns

HB-14 Second Substitute
Open Meetings Law Amendments

Sponsor: Rep. Wayne Harper

Bill Status: Passed

ULCT Position: Neutral as substituted

Purpose of the Bill:
This bill clarifies that a workshop or an executive session of a public body in which a quorum is present is an open meeting unless closed in accordance with the act; requires certain workshops or executive sessions to be held at the location where the public body is holding the regularly scheduled public meeting; requires that all closed meetings be recorded; requires that the reason for holding the closed meeting and the location of a closed meeting be announced and entered in the minutes of the open meeting at which the closed meeting is approved; requires that public bodies provide annual training on the requirements of the Open and Public Meetings Act to the members of a public body.

Municipal Implication:
This bill simply requires that all public bodies have an audio recording of both open and closed meeting in addition to the written minutes. The bill still provides an exception in closed meetings when discussing deployment of security devises, character, competence, physical or mental health of individuals. The bill still makes the written minutes the official record of all proceedings. While recordings and minutes of closed meetings must be taken, those records are still considered protected under the Government Records Access Management Act. The bill also clarifies what constitutes a "public meeting" to include executive sessions or workshops of a publicly elected body where a quorum is present. Finally the bill requires annual training of the Open and Public Meetings act for members of the public body.

Want to See the Full Text?
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Want to See the Full Text?
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HB-16 Third Substitute
Revisions to Open and Public Meetings Law

Sponsor: Rep. Glenn Donnelson

Bill Status: Passed

ULCT Position: Neutral as substituted

Purpose of the Bill:
This bill defines "recording" of a public meeting to mean an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting. The bill encourages public bodies to use electronic means to provide public notice to media agencies that make a periodic written request to receive them; and post public notice of its meetings on the internet. Lastly, the bill requires public notices with agendas to provide reasonable specificity to notify the public as to the topics to be considered at the meeting, and prohibits a public body from taking action on topics that are not posted with the public.

Municipal Implication:
This bill is quite redundant of HB14 regarding the recording of open and public meetings. The bill does, however, clarify that items not listed on the posted meeting agenda can not be acted on by the public body. The bill also clarifies that items listed on the agenda must be outlined with reasonable specificity. Lastly the bill requests, but does not require that agendas and public notices also be made available via the internet.

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ULCT Position: Neutral as substituted

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Utah League of Cities and Towns

HB-28 Substitute
Access and Fee Amendments to GRAMA

Sponsor: Rep. Doug Aagard

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill provides that in response to a request, a governmental entity is not required to compile, format, manipulate, package, summarize, or tailor information, or provide a record if the information requested is accessible in the same physical form and content in a public publication produced by the governmental entity and if the governmental entity provides the requester with the publication and specifies where the record may be found in the publication. The bill also clarifies circumstances when a protected record can be released and also clarifies how that information may be used once released. On a final positive not the bill allows a city or town to charge for staff time for compiling, formatting, manipulating, summarizing or packaging of information contained in a governmental record.

Municipal Implication:
This bill provides additional flexibility to cities and towns when fulfilling burdensome records requests. The original law was fairly ambiguous about fees for staff time associated with fulfilling records requests. This bill clarifies that the manipulation of government records is a fee based service. The bill also allows a city or town to refer requestors to alternative publications, including the internet, where identical information may be found instead of fulfilling the actual "record request". Finally, the bill clarifies that protected records can be given to a government contractor under certain circumstances and limits the use of such records by the contractor.

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HB-38
Water Reuse Requirements

Sponsor: Rep. Ben Ferry

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:

This bill allows reuse of water by a public agency, including water for which water rights are not owned by the agency but a reuse authorization contract exists. The bill also establishes a process for approval of a water reuse project.

Municipal Implication:

This was one of the two major bills developed by the Legislative Water Task Force and a large group of major water suppliers and users. The bill creates a process to bring the owners of the underlying water rights and the POTW treatment operators together to jointly develop a critical component of our water resources. Since this was not an amendment to existing text, but rather the creation of a new section of code, we are unable to cover the complexity of the issue in this short space. If you are interested in water reuse projects please reference the new code 73-3c-101.

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Utah League of Cities and Towns

HB-47 Substitute
Sales Tax Diversion for Water Projects and Financing

Sponsor: Rep David Ure

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill removed a financial cap on the 1/16th cent of state sales tax that is diverted to water development projects in Utah. Approximately 3 years ago the legislature capped the fund at $17.5 Million annually. The removal of the cap garners approximately $8.6 Million additional dollars in the revolving loan fund for water project development

Municipal Implication:
The removal of the financial cap on the 1/16th cent of state sales tax for water projects was one of the highest priority bills for the legislative taskforce on water development and has a large positive impact on municipal governments looking for financial resources for future water development. Late in the session, Senator Hatch added clarifying language to ensure that the additional revenue would be utilized for some specific projects, with the remainder of the revenue going into the revolving loan fund. Senator Hatch's amendment required $500,000 of the cap excess to fund watershed development for the Department of Natural Resources. The bill allocates the remaining cap excess to the Bear River and St. George Pipeline projects and any amount not used for these projects, goes to the C&D Fund for other water projects. The bill also allocates 6% of the cap excess each year to the State Engineer to aid in the administration of water rights.

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HB-77 Second Substitute
School District Boundaries

Sponsor: Rep. David Cox

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill allows the governing body of a first or second class city or an interlocal arrangement with multiple cities with a combined population of at least 65,000 to submit for voter approval a proposal to establish a new school district. The bill then imposes requirements for the filing and processing of a petition or request to create a new school district and if completed, requires the county legislative body to make district boundary changes when voters approve a new school district.

Municipal Implication:
This bill will allow larger cities and towns, as well as a coordinated effort from smaller cities and towns to create a new school district under certain circumstances. There are, however, several safeguards in the bill to ensure that the creation of a new district does not jeopardize and existing district. The bill does require the completion of a feasibility study before pursuing the creation of the school district, and also requires that the issue be placed on the ballot for voter approval. Finally the bill designates how indebtedness for existing structures will be transferred from an existing district to the proposed new district.

This bill can be a large incentive for the school district to participate completely in aspects of municipal government, including greater willingness to comply with local government zoning and planning requests pertaining to school structures.

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Utah League of Cities and Towns

HB-109 Third Substitute
Sales and Use Tax– Food and Food Ingredients

Sponsor: Rep. Merlynn Newbold

Bill Status: Passed

ULCT Position: Neutral as substituted

Purpose of the Bill:
The original purpose of this bill was to completely remove the state, local and boutique sales tax from unprepared food items. Once substituted, the bill only removed a portion of the STATE sales tax from unprepared food items; leaving all local option sales taxes in place.

Municipal Implication:
There is little municipal implication associated with the substitute legislation. The bill reduced the STATE PORTION of the sales tax by two percent, and left all local option sales taxes on unprepared food items. There was, however, significant discussion of coming back in future legislatures to completely remove all sales tax from food items. If done, this would entail a sales tax reduction at the municipal level of nearly $80 Million — $63 Million in the local option tax and $17 Million in other boutique taxes. We will be watching this issue closely in the future.

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Want to See the Full Text?
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HB-112 Substitute
Transportation Investment Act

Sponsor: Rep. Rebecca Lockhart

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill earmarks a portion of the state sales tax (8%) for the state transportation fund as ongoing funding for the completion of the Centennial Highway Program. The 8% earmark is equal to an ongoing appropriation of $149 Million.

Municipal Implication:
This bill essentially assures the completion of the projects listed in the Centennial Highway Program which was compiled in 1997. The bill was a significant priority for many area association of governments and metropolitan planning organizations as well as the State Transportation Planning Taskforce. This earmark was in addition to another $100 Million in one time funds for state transportation capacity improvement projects.

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Utah League of Cities and Towns

HB-113 Substitute
Auditing of Leases Related to Revenue Bonds

Sponsor: Rep. Neil Hansen

Bill Status: Did not pass

ULCT Position: Oppose

Purpose of the Bill:
This bill would have required that any new contract or agreement between a city or town and a private entity that involves lease payments where the lease revenue is pledged for payment of a revenue bond include provisions that allow the local political subdivision to independently assess the ability of the private entity to meet its financial obligations, and rescind or amend the contract or agreement if the assessment finds that the private entity is unable to meet its financial obligations. The bill also requires the local political subdivision to ensure that the independent assessment is conducted prior to entering into a new contract or agreement and at least annually on existing contracts and requires the independent assessment to be performed using audited financial statements provided by the private entity.

Municipal Implication:
This bill would have had significant negative ramifications on the ability to acquire bonds since it essentially gives the municipality the ability to amend a financial agreement after it has been bonded against. The bill also would have required extensive annual auditing of all public/private partnerships including partnerships with private water companies, garbage collection companies, airport lessees, etc.

Since most public entities are already reviewing the financial strength of private company partners before entering into a contract, the Policy Committee felt that this bill was burdensomely redundant.

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Want to See the Full Text?
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HB-120
Election and Referendum Procedures

Sponsor: Rep. Dave Hogue

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill: This bill attempted to address 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 delaying municipal development proposals. Lost in the discussion was a provision in the current law which says, "'Local law' does not include individual property zoning decisions." Since this bill only applies to "local laws, the question then becomes, what is an individual property zoning decision – an administrative action, legislative action, or quasi-judicial action?

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Election and Referendum Procedures

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Utah League of Cities and Towns

HB-131
Economic Development Incentives

Sponsor: Rep. Brad Dee

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:

This bill repeals the provision in the Economic Development Incentives Act that precludes a project qualified to receive partial rebates of new state revenues generated by the project under the Act from receiving additional financial assistance from the Industrial Assistance Fund.

Municipal Implication:

This bill gives additional financial tools to municipal economic developers to entice new development. Prior to this legislation, a municipality was unable to leverage both state rebates and financial resources available in the Industrial Assistance fund for a single project. This repealer allows for the pairing of both incentives for a single project if such action is considered meritorious by GOED and the local economic development agency.

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Want to See the Full Text?
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HB-132 Substitute
Local Land Use Requirements

Sponsor: Rep. Michael Morley

Bill Status: Passed

ULCT Position: Support as amended

Purpose of the Bill:
This bill adds a definition for "land use permit" and prohibits counties and municipalities from imposing a requirement on a holder of a land use permit unless that requirement is in the new defined permit, the documents on which the permit is based, statute, or local ordinance. The bill also prohibits counties and municipalities from withholding issuance of a certificate of occupancy because of an applicant's failure to comply with certain unexpressed requirements.

Municipal Implication:

When defining a land use permit and including associated statutes, local ordinances, and documents to the list of materials that can be used to prevent the issuance of a building permit, we have essentially added all items that a city or town is already using in such action. This bill essentially says that you cannot enforce desired actions by withholding a certificate of occupancy or building permit if such actions are not expressly included in local ordinances, development agreements, Uniform Building or Fire Codes or any other associated document for which the building permit of certificate of occupancy is based. Since current case law and standard practice is based on this principle, this bill essentially codifies what cities and towns should already be doing.

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Sponsor: Rep. Michael Morley

Bill Status: Passed

ULCT Position: Support as amended

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Utah League of Cities and Towns

HB-135
Performance Audits of Local Governments

Sponsor: Rep. Peggy Wallace

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill:

This bill would have required the legislative auditor general to perform annual performance audits of first and second class counties and cites. The bill would have also required the legislative auditor general to prepare written reports of those performance audits, make the audits available to the legislature and the public, and monitor county and city actions to correct deficiencies identified in the audits

Municipal Implication:

The bill would have required all first and second class cities to conduct a performance audit in addition to a financial audit on an annul basis. The performance audit would be utilized to identify deficiencies in the functionality of the municipality. The audits would have to be reported on in a public meeting and be made available under the Government Records Access Management Act. The bill would have been extremely burdensome to the affected entities.

Want to See the Full Text?
Please Visit www.ulct.org and follow the legislative links

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HB-135
Performance Audits of Local Governments

Sponsor: Rep. Peggy Wallace

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill:

This bill would have required the legislative auditor general to perform annual performance audits of first and second class counties and cites. The bill would have also required the legislative auditor general to prepare written reports of those performance audits, make the audits available to the legislature and the public, and monitor county and city actions to correct deficiencies identified in the audits

Municipal Implication:

The bill would have required all first and second class cities to conduct a performance audit in addition to a financial audit on an annul basis. The performance audit would be utilized to identify deficiencies in the functionality of the municipality. The audits would have to be reported on in a public meeting and be made available under the Government Records Access Management Act. The bill would have been extremely burdensome to the affected entities.

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HB-146
Public Safety Retirement for Dispatchers

Sponsor: Rep. Bud Bowman

Bill Status: Did Not Pass

ULCT Position: No Position

Purpose of the Bill:

The bill would have required the state to convert all state employed public safety dispatchers to the public safety retirement system, which provides for benefit enhancements in the retirement system and annual COLA adjustments for retirees. The bill also authorized locally employed pubic safety dispatchers convert to the public safety retirement system, but did not require the conversion at the local level.

Municipal Implication:

While the bill did not require the retirement conversion for locally employed public safety dispatchers, many municipal officials were concerned that it would eventually be made mandatory at the local level as well. The price of such a conversion would be prohibitive.

Page 30

HB-146
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ULCT Position: No Position

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Municipal Implication:

While the bill did not require the retirement conversion for locally employed public safety dispatchers, many municipal officials were concerned that it would eventually be made mandatory at the local level as well. The price of such a conversion would be prohibitive.

Utah League of Cities and Towns

HB-147
Revisions to Distribution of Sales and Use Tax Revenue

Sponsor: Rep. Scott Wyatt

Bill Status: Did not pass

ULCT Position: Oppose

Purpose of the Bill:

The bill would have established a procedure for a county, and a 2/3 majority of the municipalities within a county, to agree to an alternate distribution formula for certain local option sales and use tax revenues within the incorporated and unincorporated areas of the county. The bill only applied to certain counties.

Municipal Implication:

The bill would have allowed 2/3 majority of municipalities and the county to potentially alter the sales tax distribution formula for all cities and towns within that county. There was concern expressed that the minority cities within the county that may oppose such a change could be forced to participate in an alternative distribution formula without there consent. Obviously the financial situation of such cities would become some what precarious and the potential for change may have an impact on the ability to finance and bond in the future.

Page 31

HB-147
Revisions to Distribution of Sales and Use Tax Revenue

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HB-160 Substitute
Construction Standard Amendments

Sponsor: Rep. Michael Morley

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill was introduced to assist in the state's collection of municipal building permit information. Two years ago the state began collecting municipal and county building permit information to assist in monitoring the use of the state construction lien recovery fund. Because the state was unaware of the construction projects that were being done, it was difficult to verify the legitimacy of a request against the state lien recovery fund on such projects. Due to the magnitude of the construction that is occurring, the state requested some standardization of the municipal and county permitting process — this bill standardizes some aspects of the building permit information which are collected by counties and municipalities

Municipal Implication:
Starting on January 1, 2007 all cities and towns will be required to include some standard information fields on their building permits. In addition the state has standardized the numbering system for all building permits that will be issued by cities and counties in the state. The new numbering system allows the Division of Occupation and Professional Licensing to assign a unique municipal identification code to all cities and towns with a standardized numbering system that must be followed. The law now also requires cities and counties to submit all issued building permits to the state construction registry within fifteen days of issuing the permit. For more information on this project please contact the ULCT or the State Division of Occupation and Professional Licensing at www.dopl.utah.gov.

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HB-160 Substitute
Construction Standard Amendments

Sponsor: Rep. Michael Morley

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
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Utah League of Cities and Towns

HB-162
Transportation Funding Amendments

Sponsor: Rep. John Dougall

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill:
This bill would have prohibited the state, counties, and municipalities from spending project-specific funds allocated through a congressional authorization act for a transportation project that is eligible for funds apportioned to the state in support of the statewide transportation improvement program.

Municipal Implication:
The bill would have essentially prohibited cities and towns from utilizing transportation funds that had been acquired through a federal transportation fund earmark. Some members of the legislature expressed concern regarding the ever increasing federal earmarking process, whereby cities and towns were lobbying the congressional delegation for project specific earmarks within their jurisdictions. This bill did not pass.

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HB-168 Substitute
Eminent Domain Limitation on Political Subdivisions

Sponsor: Rep. Ben Ferry

Bill Status: Did Not Pass

ULCT Position: Neutral as Substituted

Purpose of the Bill:

This bill would have prohibited counties, cities, towns, and independent special districts from acquiring by eminent domain the rights to water that is outside their boundaries, unless the water is within the watershed of the entity's water sources.

Municipal Implication:

While this bill did not pass we expect significant discussion on this issue in the coming year. Once substituted, the bill really didn't appear to do too much, since it still allowed condemnation within the entities watershed area. The concern most people had revolved around the potential for unintended consequences. The bill will likely be taken up by the Legislative Taskforce on Water Issues that was reauthorized for an additional year.

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HB-168 Substitute
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Utah League of Cities and Towns

HB-172 Second Substitute
Local Land Use Provisions Relating to Schools

Sponsor: Rep. Jim Ferrin

Bill Status: Passed

ULCT Position: Support as substituted

Purpose of the Bill:
This bill clarifies that the standards that a county and municipality are authorized to impose on a charter school must be objective and not subjective land use standards. The bill also provides that the only basis on which a county or municipality may deny or withhold approval of a charter school's land use application is the failure to comply with those objective standards. Lastly, the bill clarifies that a charter school can not be held financially responsible for an impact fee study associated with roadway or sidewalk that is not reasonably necessary to ensure the safety of the school children or is not contiguous to the school property.

Municipal Implication:

The substitute bill simply clarifies the objective land-use standards that can be imposed on a charter school to include height, bulk, mass, set back, off site parking, curb cuts, construction staging and traffic circulation. The bill also makes a charter school a permitted use in all zones except zones designated for sexually oriented business, yet the schools are still subject to the objective standards listed above regardless of the zone. Lastly the bill clarifies the use of impact fees with charter schools to exclude roads and sidewalks that are not contiguous to the school or necessary to ensure the children's safety. Some modification of a municipalities impact fee assessment may be necessary to comply with this change. In addition, changes to a municipalities zoning ordinance may be necessary to make charter schools a permitted use in all zones except SOB zones.

Want to See the Full Text?
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HB-172 Second Substitute
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HB-206
Local Governments Form of Government

Sponsor: Rep. Peggy Wallace

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill:
This bill would have required cities of the first or second class to operate under a council-manager form of government; and required counties of the first class to operate under a council-manager form of government.

Municipal Implication:
The bill would have required several local governments to change from the Mayor-Council form of government to the Council-Manager form of government. The bill would have required a complete overhaul for several cities despite the fact that many of them had been formed under the Mayor-Council form by a vote of the public. The bill did not pass.

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HB-206
Local Governments Form of Government

Sponsor: Rep. Peggy Wallace

Bill Status: Did Not Pass

ULCT Position: Oppose

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Utah League of Cities and Towns

HB-221
Ambulance and Paramedic Fee Amendments

Sponsor: Rep. Paul Ray

Bill Status: Passed

ULCT Position: Neutral

Purpose of the Bill:
This bill amends the Utah Emergency Medical Services System Act to prohibit ambulance and paramedic providers from charging fees for transporting a patient when there is no transport of the individual.

Municipal Implication:
Some legislators were concerned that individuals were being charged a transport fee when an ambulance simply responded to a call but did not transport the patient. This bill still allows for a separate treatment charge if treatment services are provided, but requires the provider to actually transport the patient in order to charge the transport fee. Since some cities provide ambulance service, this law may impact current practices.

Page 37

HB-221
Ambulance and Paramedic Fee Amendments

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HB-240 Substitute
Public Safety Retirement Revisions

Sponsor: Rep. David Clark

Bill Status: Did not pass

ULCT Position: Support as Substituted

Purpose of the Bill:

This bill modifies the Utah State Retirement Act by increasing the cost-of-living allowance for the Public Safety Retirement Systems from 2.5% to 4%. The bill also included additional spousal death benefit allowances for members of the Public Safety Retirement Systems. The substitute bill funded the entire benefit increase out of state funds.

Municipal Implication:

While the original bill, which was opposed by the ULCT, would have cost local governments roughly $10 Million annually in additional benefit enhancements for retirees in the Public Safety Retirement Pool, the ULCT initiated substitute bill funded the benefit by diverting a portion of the STATE tax on auto insurance premiums to a restricted account to cover the local government costs. Due to the fiscal impact on the state, the bill did not pass. This bill will be discussed again in the coming legislative session.

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Utah League of Cities and Towns

HB-247 Substitute
Plea in Abeyance Fee

Sponsor: Rep. Susan Lawrence

Bill Status: Passed

ULCT Position: Neutral as Substituted

Purpose of the Bill:

This bill defines fines and fees that can be imposed on a plea and abeyance. The bill limits the fine to the uniform bail schedule plus all applicable surcharges and a plea and abeyance fee not to exceed $25.

Municipal Implication:

The municipal impact should be nominal. Current law limited the fine to the uniform bail schedule plus surcharges and applicable fees. This bill simply limits the plea and abeyance fee to $25. Most cities and towns operating justice courts are not even charging a plea and and abeyance fee and those who are usually charge a nominal fee. Some cities and towns have combined the plea and abeyance fee and the traffic school fee. Under that circumstance, the city would simply have to break out the two programs and itemize the fees whereby the plea fee does not exceed $25. The bill does still allow flexibility to charge a separate fee for other related programs associated with a plea arrangement. The bill also requires the city to provide an itemized list of all fees charged if requested by the defendant.

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Want to See the Full Text?
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HB-250
Local Government s Restrictions on Limiting Certain Fees

Sponsor: Rep. Greg Hughes

Bill Status: Passed

ULCT Position: Neutral

Purpose of the Bill:

This bill prohibits counties, cities, and towns from imposing controls on fees on private residential property.

Municipal Implication:

The municipal implication is nominal. The bill prohibits a city or town from limiting or controlling the fees that can be charged on private residential property. Several landlords are concerned that cities and towns may restrict the fees that may be charged when conducting background checks for potential tenants of rental units. The bill would prohibit a city from limiting such fees.

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HB-250
Local Government s Restrictions on Limiting Certain Fees

Sponsor: Rep. Greg Hughes

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Utah League of Cities and Towns

HB-256
Requirement of Property Tax Increase Advertisement

Sponsor: Rep. Greg Hughes

Bill Status: Passed

ULCT Position: Support, ULCT Initiated

Purpose of the Bill:
This bill amends the Property Tax Act to modify the notification requirements for taxing entities levying a tax rate in excess of the certified tax rate — Truth-in-Taxation Notice. The bill takes effect on January 1, 2007.

Municipal Implication:
This bill drastically simplifies the newspaper advertisement for truth-in-taxation purposes to provide more accurate information and to be less inflammatory as to the magnitude of the proposed tax increase. The bill will not take effect until January 1, 2007 and will not be utilized until FY 07-08.

Please review the sample newspaper ad that is available on the ULCT Website: www.ulct.org

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HB-256
Requirement of Property Tax Increase Advertisement

Sponsor: Rep. Greg Hughes

Bill Status: Passed

ULCT Position: Support, ULCT Initiated

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HB-309 Second Substitute
Municipal Energy Sales and Use Tax Amendments

Sponsor: Rep. Greg Hughes

Bill Status: Passed

ULCT Position: Support as substituted

Purpose of the Bill:
In light of the large increases in the price of natural gas, this bill was intended to provide some relief to rate payers. The bill limits the growth in tax revenue associated with natural gas to 10% over the previous year. The base year is FY2004-2005. In growth over 10% will be rebated back to the ratepayer in the following December. The bill only effects natural gas tax revenue, not the electrical utility. The bill is only in effect for two years.

Municipal Implication:
This bill requires a rebate to ratepayers in the municipal energy sales and use tax revenues to be paid in December 2006 and December 2007. The rebate will be issued on behalf on Utah's cities and towns by natural gas company. The Utah League of Cities and Towns worked closely with Representative Greg Hughes, Questar, and consumer groups to determine a compromise that would provide some relief to Utah energy tax ratepayers yet still protecting the financial interest of Utah's cities and towns. The legislation limits the actual growth in natural gas revenue associated with the municipal energy sales and use tax to 10% over the previous year. Any additional growth, over 10%, will be rebated back to the ratepayer in the following December. The bill does not impact the electrical utility. This bill is only in effect for two years.

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Utah League of Cities and Towns

HB-319 Substitute
Density Credit for Land Donated to School District

Sponsor: Rep. David Cox

Bill Status: Did Not Pass

ULCT Position: Neutral as substituted

Purpose of the Bill:
This bill would have enacted provisions relating to a property owner's donation of land or money for a school building to be allowed a density bonus with respect to the owner's subdivision plat

Municipal Implication:
This is the second year this bill has been attempted. While the ULCT opposed the original legislation, significant changes were made to the bill to make it favorable to cities and towns. The initial bill required cities and towns to give density credits if land was donated to the schools, whereas the substitute bill simply allowed it as an option to consider. Despite the changes the bill still did not pass.

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Want to See the Full Text?
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HB-333 Substitute
Antitrust Exemption

Sponsor: Rep. Richard Wheeler

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill classifies municipalities, electrical interlocal entities and energy service interlocal entities and any entity formed under Title 11-13-103 before 1981 as entities exempt from Utah's Criminal Code Anti-Trust Act.

Municipal Implication:

This bill was drafted in response to a recent Utah Supreme Court Decision that called in to question the Anti –Trust exemption for entities created under the Interlocal Agreement Act. This particular bill simply clarified that electrical interlocal entities and energy service interlocal entities are exempt from Anti-Trust action.

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Antitrust Exemption

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Utah League of Cities and Towns

HB-338 Second Substitute
Property Tax Exemption for Business Personal Property

Sponsor: Rep. John Dougall

Bill Status: Passed

ULCT Position: Support as substituted

Purpose of the Bill:
This bill exempts certain personal property of a taxpayer if the tangible personal property has a total value of $3,500 or less. The bill does not take effect until HJR1, which allows for differential treatment of certain property for tax purposes, is submitted to a vote and passed by a majority in a general election. That election will be held in November 2006, and if passed this law will go into effect on January 1, 2007.

Municipal Implication:
If HJR1 passes and this bill takes effect, it may have a nominal impact on the taxation of tangible personal property. There will also be a slight shift in taxation from tangible personal property to real property. No financial impact will be borne by a municipality due to effect of calculation of the certified tax rate which factors in shift in the value of property.

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Want to See the Full Text?
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HB-357
Water Issues Task Force

Sponsor: Rep. David Ure

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
The Water Issues Task Force was preauthorized for one more year. The membership will consist of five senators and 8 representatives. The task force is required to report by 11/30/06 and then the task force is repealed on the same date. The authorized study issues are: (1) instream flow, (2) water conservation, (3) water development financing and (4) any other issue related to the development and or management of Utah's water resources.

Municipal Implication:
This will be the third year of the Water Issues Taskforce. This has been a particularly good taskforce for local government. We look forward to continuing to work closely with this taskforce in the coming year. Just so everyone is aware, there will also likely be significant discussion regarding municipalities ability to condemn water rights outside of their jurisdictional boundaries. This is an issue we will have to pay particular attention to.

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HB-357
Water Issues Task Force

Sponsor: Rep. David Ure

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
The Water Issues Task Force was preauthorized for one more year. The membership will consist of five senators and 8 representatives. The task force is required to report by 11/30/06 and then the task force is repealed on the same date. The authorized study issues are: (1) instream flow, (2) water conservation, (3) water development financing and (4) any other issue related to the development and or management of Utah's water resources.

Municipal Implication:
This will be the third year of the Water Issues Taskforce. This has been a particularly good taskforce for local government. We look forward to continuing to work closely with this taskforce in the coming year. Just so everyone is aware, there will also likely be significant discussion regarding municipalities ability to condemn water rights outside of their jurisdictional boundaries. This is an issue we will have to pay particular attention to.

Utah League of Cities and Towns

HB-394 Substitute
Relocating Outdoor Advertising

Sponsor: Rep. David Ure

Bill Status: Passed

ULCT Position: Neutral as substituted

Purpose of the Bill:
This bill expands the regulations that may require the relocation of an outdoor advertising sign to maintain the required distance from high voltage overhead lines. The bill also provides that an owner of an outdoor advertising structure that is required to be relocated shall have the option to relocate and remodel the structure to certain other locations, and requires that a county or municipality shall provide a special exception to its zoning ordinance if necessary to provide for the relocation.

Municipal Implication:
This bill will require a municipality to allow the relocation of an outdoor advertising sign if the sign is too close to an overhead power line, as outlined in the International Building Code OSHA standards. The bill does, however, limit where a relocation can occur to the same property, an adjacent property or within 1/2 mile of the previous location on either side of the highway. The bill does limit the reconstruction to commercial or industrial zones or zones where outdoor advertising is allowed. The bill also require the issuance of a special exception to the zoning ordinance to allow for the sign if necessary. If the relocation is not allowed, the municipality must compensate the outdoor advertising company.

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Want to See the Full Text?
Please Visit www.ulct.org and follow the legislative links

HB-420
Municipal Building Inspectors Availability

Sponsor: Rep. Aaron Tilton

Bill Status: Did Not Pass

ULCT Position: Oppose

Purpose of the Bill:
This bill would have required municipalities that employ at least one full-time building inspector to ensure the availability of a building inspector during regular business hours Monday through Friday.

Municipal Implication:
This bill targeted those cities that have moved to the four day work week. The bill essentially required the availability of building inspectors, to conduct building inspections, Monday through Friday. While most cities operating under the four day work week are making an inspector generally available already, this bill would have mandated availability all day, Monday through Friday. The bill did make exceptions for vacation, sick leave and other commonly acceptable reasons. THIS BILL DID NOT PASS.

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Utah League of Cities and Towns

HJR-1 Second Substitute
Resolution Regarding Property Tax on Personal Property

Sponsor: Rep. John Dougall

Bill Status: Passed

ULCT Position: Support as substituted

Purpose of the Bill:
This resolution proposes to amend the Utah Constitution to authorize the Legislature to provide a property tax exemption for tangible personal property that would generate an inconsequential amount of revenue as outlined in HB338.

Municipal Implication:
This bill allows the Lieutenant Governor to submit a question on the November General Election Ballot to allow the Legislature to provide a tax exemption for tangible personal property with a total value of $3500 or less. If passed, the exemption goes into effect beginning January 1, 2007. Please see the summary of HB338 (Page 45) for additional information.

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HJR-29
Resolution Restricting Use of Eminent Domain

Sponsor: Rep. John Dougall

Bill Status: Did not pass

ULCT Position: Oppose

Purpose of the Bill:
This joint resolution of the Legislature proposed to amend the Utah Constitution to modify provisions relating to the taking or damaging of private property for public use. The resolution would have amended the Utah Constitution to limit the public uses for which private property may be taken to seven general uses. The bill also required entitled the owner of taken property, or the owner's beneficiary or heir, to reacquire the property if the public use ceased

Municipal Implication:
The bill attempted to constitutionally limit condemnation authority to utility and transportation corridors, airports, public safety facilities, waste management and sewage treatment facilities, water collection and distribution systems, and public education facilities. This would have been a dramatic curtailment of the current condemnation authority for governing agencies. The bill also required that the property be offered to the owner or owner's beneficiaries if the public use ceased, causing significant municipal hardship in tracking and maintaining records regarding the previous owner of condemned property. If passed, the ability to ever condemn for parks, trails, blight and many other public uses would have been stopped. THIS BILL DID NOT PASS.

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Utah League of Cities and Towns

SB-12
Electronic Meeting Amendment

Sponsor: Sen. Lyle Hillyard

Bill Status: Passed

ULCT Position: Neutral

Purpose of the Bill:
This bill requires a public body to adopt a resolution, rule, or ordinance governing the use of electronic meetings prior to holding an electronic meeting, and allows the resolution, rule, or ordinance adopted by the public body to prohibit or limit electronic meetings based on budget or logistical constraints. The bill also requires a request for a electronic meeting to be made by a member of a public body up to three days prior to the meeting.

Municipal Implication:
The bill simply outlines the process for approving a resolution or ordinance to allow for an electronic meeting, and allows the public body to restrict the use of electronic public meetings. If a city or town wishes to use electronic communication for some members of the public body in some circumstances, they must first pass a resolution or ordinance outlining the procedure and protocol for such public meetings. The law allows quite a bit of flexibility in what must be contained in the ordinance, but suggests several things such as: a quorum must be present at a single anchor location, and notice of an electronic meeting must be given3 days prior to the meeting by a member of the public body.

Page 51

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SB-15
GRAMA Appeals Process & Document Request Amends

Sponsor: Sen. Dave Thomas

Bill Status: Did not pass

ULCT Position: Support

Purpose of the Bill:
This bill provided that a governmental entity need not fulfill a record request if the record requested is accessible in the same physical form and content in a public publication produced by the governmental entity and if the governmental entity provides the requester with the publication and specifies where the record may be found in the publication. The bill also designated that a request for a record that relates to a notice of claim under the Governmental Immunity Act of Utah as an extraordinary circumstance, and allowed additional time to comply with fulfilling the request for information. Finally, the bill required that appeals be heard by the state records committee before being appealed the judiciary unless both the requester and the governmental entity agree, in writing, to make an appeal directly to the judiciary.

Municipal Implication:
While this bill did not pass, the first provision, allowing the governmental entity to redirect a request to another public publication (website, library, etc.) if the information was available at that location in the same format was included in HB28 (See Page 19 for more information on this provision). The remainder of the bill clarified the process for appealing a GRAMA complaint, and required that a complaint first be heard by the State Records Committee. Finally, the bill designated a notice of claim under Governmental Immunity Act was an extraordinary circumstance and allowed up to 30 days to fulfill such requests. THIS BILL DID NOT PASS — SEE HB28-2006 FOR ASPECTS THAT DID PASS.

Page 52

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Utah League of Cities and Towns

SB-17
Highway Transfer Process Amendments

Sponsor: Sen. Carlene Walker

Bill Status: Passed

ULCT Position: Support, Initiated

Purpose of the Bill:
This bill formalizes a process whereby a local government or the state can petition to alter the jurisdiction of a given segment of road. The bill requires that the DOT or local government submit the proposed addition or deletion of a road to the Transportation Interim Committee for review no later than June 30 of each calendar year. The bill then requires the DOT to report on the progress of altering the jurisdiction of such roads by November 30 of that same calendar year. The bill gives rule making authority to DOT to determine the criteria and process for considering such transfers and also requires the DOT to draft rules to ensure that all affected entities are notified of potential transfers.

Municipal Implication:
This bill should, hopefully, remove the future need to go through the legislative process of studying the jurisdictional transfer of state roads as has been done several times in the recent past. The bill clarifies the formal process for considering the transfer of state or local roads, and simply has the legislative interim committee track such discussions. The bill clarifies that this process can be initiated by either the state DOT or the local government and allows the transfer to work both ways. If you are interested in transferring a road or gaining oversight of a state road please let the ULCT staff know prior to June 30 of each year so that it can be included on the list for consideration.

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Want to See the Full Text?
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SB-29
Sales and Use Tax Exemption— Telecommunications

Sponsor: Sen. Curt Bramble

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill provides a sales and use tax exemption relating to certain telecommunications equipment, machinery, and software.

Municipal Implication:
The ULCT Legislative Policy Committee supported this bill as the final piece to the 4 year process of overhauling the taxation of telecommunications. In exchange for supporting this bill, cities and towns were supported in conversion of the old telecommunications franchise tax to the new 4% gross receipts tax on telecommunications. This bill, SB29, provides some tax exemption for the telecommunications industry. The total local impact of the exemption is approximately $2.8 Million.

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Utah League of Cities and Towns

SB-32
Multi-channel Video or Audio Service Tax— County or Municipal Franchise Fee Tax Credit

Sponsor: Sen. Brent Goodfellow

Bill Status: Did not pass

ULCT Position: Neutral

Purpose of the Bill:
This bill amended the Multi-Channel Video or Audio Service Tax Act to provide a nonrefundable STATE tax credit for a multi-channel video or audio service providers equal to the local franchise fees paid by the provider to operate within certain cities and towns. The bill also required that the multi-channel video or audio service provider pass through an amount equal to the tax credit to purchasers located within the state

Municipal Implication:
Since the bill used state funds to pay the tax credit equal to the franchise taxes paid by the services provider, the ULCT Policy Committee took a neutral position on the bill. The bill did not pass due to the state fiscal impact. This bill had a fiscal note of $9.8 Million to the State of Utah. There was no impact to cities and towns.

This bill did not pass. It will likely be reconsidered in 2007.

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SB-35 Substitute
Local Option Sales and Use Tax Distribution Amendments

Sponsor: Sen. Greg Bell

Bill Status: Passed

ULCT Position: Supported by ULCT Resolution

Purpose of the Bill:
This bill provides a 7 to 10 year transition period for several cities to transition from a sales tax distribution formula equal to 0.75% sales tax distributed at 100% point of sale to a sales tax distribution formula equal to 1% sales tax distributed at 50% point of sale and 50% population.

Municipal Implication:
This bill phases out the 1983 sales tax "hold-harmless" provision which guaranteed the greater of 0.75% local option sales tax distributed at 100% point of sale or 1% local option sales tax distributed at 50% point of sale and 50% population. The bill provides a 7 to 10 year phase out of the "hold-harmless". The phase out guarantees each hold-harmless city or town (cities that receive more revenue under the .75% local option sales tax at 100% point of sale) at least the sales tax revenue generated in fiscal year 2004-2005 for a period of 7 to 10 years and allows such communities to use that period of time to make up the difference between what was generated in 2004-2005 and what would be received under the 1% local option sales tax at 50% point of sale and 50% population.

The hold-harmless cities and towns that are affected by this legislation are: Alta, Brian Head, Murray, Naples, Park City, Riverdale, Springdale, South Salt Lake, Vernal, and Woods Cross.

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Utah League of Cities and Towns

SB-54
Revenue Flow from Speeding Violations

Sponsor: Sen. Bill Hickman

Bill Status: Did not pass

ULCT Position: Neutral

Purpose of the Bill:
This bill would have redirected a portion of the revenue generated from speeding tickets issued by local government police officers on the Federal Interstate System from the prosecuting jurisdiction and local government courts that oversees the ticket to the state treasurer.

Municipal Implication:
The bill, under certain circumstances, would have taken half of the revenue that is usually spit between the justice court and the prosecuting jurisdiction and redirected it to the state treasurer. The bill only affected revenue associated with traffic tickets issued by local governments on the state interstate system. Since most cities and towns are not issuing traffic tickets on the INTERSTATE, the bill would have had a nominal impact on cities. The same cannot be said of the counties, who often patrol the interstate system. Due to the limited municipal impact the ULCT Policy Committee took a neutral position on this bill

Several legislators expressed concern that local governments are patrolling the interstate simply to generate revenue through the issuance of traffic tickets and prosecuting the violation in the justice courts. We were able to dispel that myth for cities and towns, but there is growing skepticism of the whether the justice courts are here to administer justice or simply generate revenue. We expect the justice court issue to be back in the coming year. THIS BILL DID NOT PASS.

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SB-58 Substitute
Alcoholic Beverage Amendments– Alcohol Sales to Youth

Sponsor: Sen. Pete Knudson

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill appropriates $2.1 Million additional dollars in the restricted account that can be utilized by local government to prevent, treat, detect, and prosecute violations of the Alcohol Beverage Control Act. The bill also outlines the training that all off-premise beer retailers must conduct before a local government may issue a license to sale such products, and also provides 30 days for new retailer employees to be trained in accordance with this law. The bill allows for immediate suspension of a retailers license for not complying with the training outlined in the law, and allows for the fining of retailers for not properly maintaining records or identifying employees who have conducted the training.

Municipal Implication:
This bill gives greater prosecution ability to municipal governments who are interested in curtailing the sale of alcohol to youth. The bill appropriates funds to the restricted account to market and manage the new program outlined in this bill. For complete details on what can be done under this bill please see Title 32A-10-103 or contact the State Department of Alcohol Beverage Control at www.alcbev.state.ut.us

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Utah League of Cities and Towns

SB-113 Second Substitute
Government Immunity Limits

Sponsor: Sen. Howard Stephenson

Bill Status: Passed

ULCT Position: Support as Substituted

Purpose of the Bill:
In response to the USU van accident in 2005, Senator Stephenson introduced SB113. The original bill would have increased the governmental liability cap from $550K to $1 Million per individual and the aggregate liability cap from $1 Million per accident to $10 Million per accident. This bill was substituted at the ULCT request. The substitute bill leaves the current individual liability cap in place and increases the aggregate cap from $1 Million to $2 Million — a significant reduction from the original bill. The bill allows local governments to petition the State Board of Examiners to award additional damages out of STATE funds in the case of a catastrophic claim where the current liability coverage is insufficient. Lastly the bill request the state risk manager and local government to examine the current Board of Examiners process to determine if and how local governments should participate. The bill does not take effect until July 1, 2007

Municipal Implication:
The bill will have a nominal impact on the current insurance and reinsurance policy for municipal governments. Since the bill does not take effect until July 2007, the fiscal impact will be delayed. We will be working closely with the state to determine how local governments can participate in a catastrophic claims system such as the Board of Examiners

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SB-117
Eminent Domain Amendments

Sponsor: Sen. Howard Stephenson

Bill Status: Passed

ULCT Position: Oppose as Substituted

Purpose of the Bill:
This bill requires the taking of property by a county, city, or town to be approved by the legislative body of the county, city, or town. The bill also requires the governing body of a political subdivision intending to take property by eminent domain to provide written notice to property owners of each public meeting to approve the taking, and allow property owners the right to be heard regarding the proposed taking. The above provisions were supported by the ULCT, however, the bill was significantly amended in the final days of the legislature to include a provision that excludes walking, biking and equestrian trails not adjacent to roads as a public purpose for which eminent domain can be used. This provision was opposed by the ULCT.

Municipal Implication:
The most significant issue with this bill is the public purpose exclusion of walking and biking trails for the use of eminent domain. If you were looking to condemn for such purposes, you are now unable to do so. We will be working with several groups in the coming year to address this issue and reinstate this provision. Less significantly, but still important, the bill now requires all eminent domain action to be affirmatively voted on by the city council before condemnation can occur. The bill also requires that all affected property owners be duly noticed of all public meetings on the issue. For more information on this please see USC 78-34-1 and 78-34-4.

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This bill requires the taking of property by a county, city, or town to be approved by the legislative body of the county, city, or town. The bill also requires the governing body of a political subdivision intending to take property by eminent domain to provide written notice to property owners of each public meeting to approve the taking, and allow property owners the right to be heard regarding the proposed taking. The above provisions were supported by the ULCT, however, the bill was significantly amended in the final days of the legislature to include a provision that excludes walking, biking and equestrian trails not adjacent to roads as a public purpose for which eminent domain can be used. This provision was opposed by the ULCT.

Municipal Implication:
The most significant issue with this bill is the public purpose exclusion of walking and biking trails for the use of eminent domain. If you were looking to condemn for such purposes, you are now unable to do so. We will be working with several groups in the coming year to address this issue and reinstate this provision. Less significantly, but still important, the bill now requires all eminent domain action to be affirmatively voted on by the city council before condemnation can occur. The bill also requires that all affected property owners be duly noticed of all public meetings on the issue. For more information on this please see USC 78-34-1 and 78-34-4.

Utah League of Cities and Towns

SB-127 Substitute
Vacating or Changing a Subdivision Plat

Sponsor: Sen. Pete Knudson

Bill Status: Passed

ULCT Position: Neutral

Purpose of the Bill:
This bill modifies the definition of "subdivision" to exclude recorded agreements between owners of adjoining subdivided properties adjusting their mutual boundary so long as no new dwelling units will result in the adjustment and the adjustment does not violate any land use ordinances. The main crux of the bill however is the modification of the process for vacating or altering a street or alley described in a subdivision plat or simply altering a subdivision plat or lot.

Municipal Implication:
The bill removes the public hearing provision associated with an alteration of a subdivision if two adjoining properties adjust and record the adjustment of a mutual boundary so long as the action does not result in new dwelling units or violate any land-use ordinances. The bill also separates the process for vacating a subdivision plat or lot and vacating a street or alley. When vacating a street or alley, all the notice provisions still apply under Title 10-9a-208, but it gives the authority to vacate to the legislative body (city council). When vacating a plat or lot, again all of the notice provisions still apply as outlined in 10-9a0208, but no planning commission review is required. The bill allows the Chief Executive or Land-Use Authority to approve this action.

For a more detailed outline of this legislation please visit the planning corner of the ULCT webpage — www.ulct.org

Want to See the Full Text?
Please Visit www.ulct.org and follow the legislative links

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Vacating or Changing a Subdivision Plat

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Bill Status: Passed

ULCT Position: Neutral

Purpose of the Bill:
This bill modifies the definition of "subdivision" to exclude recorded agreements between owners of adjoining subdivided properties adjusting their mutual boundary so long as no new dwelling units will result in the adjustment and the adjustment does not violate any land use ordinances. The main crux of the bill however is the modification of the process for vacating or altering a street or alley described in a subdivision plat or simply altering a subdivision plat or lot.

Municipal Implication:
The bill removes the public hearing provision associated with an alteration of a subdivision if two adjoining properties adjust and record the adjustment of a mutual boundary so long as the action does not result in new dwelling units or violate any land-use ordinances. The bill also separates the process for vacating a subdivision plat or lot and vacating a street or alley. When vacating a street or alley, all the notice provisions still apply under Title 10-9a-208, but it gives the authority to vacate to the legislative body (city council). When vacating a plat or lot, again all of the notice provisions still apply as outlined in 10-9a0208, but no planning commission review is required. The bill allows the Chief Executive or Land-Use Authority to approve this action.

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SB-151
Property Tax– Notice and Hearing Amendments

Sponsor: Sen. Greg Bell

Bill Status: Did not pass

ULCT Position: Initiated, support

Purpose of the Bill:
This bill would have allowed a local government to include a CPI adjustment to the property tax without holding a truth-in-taxation hearing.

Municipal Implication:
This bill has been a priority for municipal government for several year now. The bill simply allows an increase in the certified tax rate equal to the Consumer Price Index without going through a Truth-In-Taxation process. While the bill did not pass, many are still concerned with the municipal overdependence on volatile sales tax. This bill will be discussed and introduced again in 2007.

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SB-151
Property Tax– Notice and Hearing Amendments

Sponsor: Sen. Greg Bell

Bill Status: Did not pass

ULCT Position: Initiated, support

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Municipal Implication:
This bill has been a priority for municipal government for several year now. The bill simply allows an increase in the certified tax rate equal to the Consumer Price Index without going through a Truth-In-Taxation process. While the bill did not pass, many are still concerned with the municipal overdependence on volatile sales tax. This bill will be discussed and introduced again in 2007.

Utah League of Cities and Towns

SB-155 Substitute
Amendments to County & Municipal Land Use Provisions

Sponsor: Sen. Greg Bell

Bill Status: Passed

ULCT Position: Initiated, support

Purpose of the Bill:
This bill is a technical "clean-up" to last years LUDMA changes, **SB 60 2nd Sub. Local Land Use Development and Management Amendments**. .

Municipal Implication:
This bill corrected certain statutory cross references in **SB 60**, relieved jurisdictions from notice requirements for "exempt" subdivisions, clarified that notice requirements were the same for vacating a "public street or right of way" as they are for vacating a "platted street" and clarified that there must be a minimum of ten days allowed from a *written decision* for an appeal from a land use authority to the appeal authority. This clarification would leave an open window of appeal for any decision that is issued orally, and not in written form. One of the more significant cross reference corrections clarified that notice for impact fee enactments follows the ten-day publication rule.

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SB-155 Substitute
Amendments to County & Municipal Land Use Provisions

Sponsor: Sen. Greg Bell

Bill Status: Passed

ULCT Position: Initiated, support

Purpose of the Bill:
This bill is a technical "clean-up" to last years LUDMA changes, SB 60 2nd Sub. Local Land Use Development and Management Amendments. .

Municipal Implication:
This bill corrected certain statutory cross references in SB 60, relieved jurisdictions from notice requirements for "exempt" subdivisions, clarified that notice requirements were the same for vacating a "public street or right of way" as they are for vacating a "platted street" and clarified that there must be a minimum of ten days allowed from a written decision for an appeal from a land use authority to the appeal authority. This clarification would leave an open window of appeal for any decision that is issued orally, and not in written form. One of the more significant cross reference corrections clarified that notice for impact fee enactments follows the ten-day publication rule.

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SB-166
Moratorium on Issuing Sales Tax Revenue Bonds

Sponsor: Sen. Lyle Hillyard

Bill Status: Did not pass

ULCT Position: Oppose

Purpose of the Bill:
The bill would have enacted a 14 month moratorium on the issuing of any new sales tax revenue bond. The concern expressed by the sponsor pertained to the debt to revenue ration for local government on this volatile revenue source. The bill was also amended to cap the debt coverage ration at a 2:1.

Municipal Implication:
The bill did not pass, therefore there will be no municipal impact. There was however an agreement between the bill on sponsor and the ULCT to discuss the issue of municipal bonded indebtedness backed by sales tax revenue. The primary focus of the discussion will center on the debt to income ratio as well as the ability to back sales tax bonds with anticipated private lease payments.

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Moratorium on Issuing Sales Tax Revenue Bonds

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Bill Status: Did not pass

ULCT Position: Oppose

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Utah League of Cities and Towns

SB-170
Local Government Land Use and Impact Fee Revisions

Sponsor: Sen. L. Alma Mansell

Bill Status: Did not pass

ULCT Position: Oppose

Purpose of the Bill:
This bill substantially altered the planning and zoning process for municipal and county governments. It made all zoning decisions affecting less than 25% of a total municipalities land mass as an administrative decision instead of a legislative decision. In addition, the bill changed the definition of an "affected property owner" to an individual owning greater than two acres of property. The bill also significantly limited the ability of a city or town to zone for comfort or aesthetic characteristics. In all there were over 65 substantive changes to the municipal land use management and development act. For greater detail on the changes please visit the ULCT webpage.

Municipal Implication:
No municipal impact. THIS BILL DID NOT PASS.

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SB-170
Local Government Land Use and Impact Fee Revisions

Sponsor: Sen. L. Alma Mansell

Bill Status: Did not pass

ULCT Position: Oppose

Purpose of the Bill:
This bill substantially altered the planning and zoning process for municipal and county governments. It made all zoning decisions affecting less than 25% of a total municipalities land mass as an administrative decision instead of a legislative decision. In addition, the bill changed the definition of an "affected property owner" to an individual owning greater than two acres of property. The bill also significantly limited the ability of a city or town to zone for comfort or aesthetic characteristics. In all there were over 65 substantive changes to the municipal land use management and development act. For greater detail on the changes please visit the ULCT webpage.

Municipal Implication:
No municipal impact. THIS BILL DID NOT PASS.

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SB-183 Substitute
Utah Emergency Medical Services Act Amendments

Sponsor: Sen. Dan Eastman

Bill Status: Passed

ULCT Position: Neutral as substituted

Purpose of the Bill:
This bill was substantially amended to only clarify that the governing body at the municipal level is the "legislative body" when it pertains to the selection of an emergency medical service provider (ambulance and paramedic service)

Municipal Implication:
This bill should have little or no impact on Utah's cities or towns. The bill simply states that a decision to select an emergency medical service provider must be made legislatively and not administratively. Since most cities and towns were interpreting the existing statute that way, the should not change the current process for most.

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SB-183 Substitute
Utah Emergency Medical Services Act Amendments

Sponsor: Sen. Dan Eastman

Bill Status: Passed

ULCT Position: Neutral as substituted

Purpose of the Bill:
This bill was substantially amended to only clarify that the governing body at the municipal level is the "legislative body" when it pertains to the selection of an emergency medical service provider (ambulance and paramedic service)

Municipal Implication:
This bill should have little or no impact on Utah's cities or towns. The bill simply states that a decision to select an emergency medical service provider must be made legislatively and not administratively. Since most cities and towns were interpreting the existing statute that way, the should not change the current process for most.

Utah League of Cities and Towns

SB-196 Second Substitute
Revisions to Redevelopment Agency Provisions

Sponsor: Sen. Curt Bramble

Bill Status: Passed

ULCT Position: Initiated, support

Purpose of the Bill:
This bill was drafted by the ULCT to create the three track RDA reform. The bill provides additional economic development opportunities under the "Community Development Track" while clarifying the intent of the current EDA and RDA. For additional information please contact Lincoln with the ULCT.

Municipal Implication:
The bill reinstates the ability of a city or town to create and economic development area or a redevelopment area. The bill clarifies that job creation is the purpose for an EDA and that the removal of physical blight is the purpose for an RDA. The bill modifies the definition of blight to restrict its use to non-Greenfield areas. The bill also changes some of the notice provisions for the creation of an RDA and EDA and requires annual meetings of the Taxing Entity Committee to track the progress of established project areas. The bill also allows a city or town to create a community development area where other taxing entities can participate on an "opt-in" basis, but all municipal resources are available to achieve the city's development goals. The CDA track does not require a finding of blight or the creation of value added jobs.

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SB-209
Waste Fee Amendments

Sponsor: Sen. Dan Eastman

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill modifies the waste fee structure that governs the fees imposed on municipal solid waste and commercial waste. In current law a commercial waste facility pays significantly more in fees than a municipal waste facility. This bill lowers the waste fees charged to commercial facilities to bring some equity to the fees paid by both municipal and commercial facilities.

Municipal Implication:
There should be little if any municipal impact associated with this bill. The bills major provisions lower the fees on commercial entities and leaves facilities owned by political subdivision with the current fee structure. The only potential fiscal impact would be borne by a municipal waste facility that excepts greater than 500 tons of industrial waste from a single provider located outside of the political subdivisions boundary. In such cases, the political subdivision must pay a greater fee amount on such waste. This bill should remove the argument that local governments are competing with an unfair tax advantage with the private sector for large extraterritorial "waste jobs"

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SB-209
Waste Fee Amendments

Sponsor: Sen. Dan Eastman

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill modifies the waste fee structure that governs the fees imposed on municipal solid waste and commercial waste. In current law a commercial waste facility pays significantly more in fees than a municipal waste facility. This bill lowers the waste fees charged to commercial facilities to bring some equity to the fees paid by both municipal and commercial facilities.

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Utah League of Cities and Towns

SB-210
Eminent Domain Changes

Sponsor: Sen. Scott Jenkins

Bill Status: Did not pass

ULCT Position: Support

Purpose of the Bill:
This bill would have provided that a redevelopment agency may acquire property by eminent domain if the agency has made a finding of blight, 2/3 of property owners submit a petition requesting the agency to acquire property by eminent domain, at least 70% of the property is developed and not vacant, and at least 75% of the property is committed to a developer by option or purchase agreement; and the redevelopment agency board, by a 75% vote, adopts a resolution approving the use of eminent domain.

Municipal Implication:
While the bill did not pass, this is certainly the starting point for future action on reinstating eminent domain for redevelopment and blight removal purposes. The bill increases the requirements for acquiring property by eminent domain under this circumstance by raising the vote threshold for the public body on approving the action, as well as, requiring that supermajority of the property owners must petition the redevelopment agency to acquire via eminent domain. This issue will be discussed again for the 2007 legislative session.

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SB-210
Eminent Domain Changes

Sponsor: Sen. Scott Jenkins

Bill Status: Did not pass

ULCT Position: Support

Purpose of the Bill:
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Municipal Implication:
While the bill did not pass, this is certainly the starting point for future action on reinstating eminent domain for redevelopment and blight removal purposes. The bill increases the requirements for acquiring property by eminent domain under this circumstance by raising the vote threshold for the public body on approving the action, as well as, requiring that supermajority of the property owners must petition the redevelopment agency to acquire via eminent domain. This issue will be discussed again for the 2007 legislative session.

Want to See the Full Text?
Please Visit www.ulct.org and follow the legislative links

SB-258 Substitute
Revenue Bonds– Auditing of Public-private Contracts

Sponsor: Sen. Curt Bramble

Bill Status: Did not pass

ULCT Position: Oppose

Purpose of the Bill:
This bill would have required that any new contract or agreement between a city or town and a private entity that involves lease payments where the lease revenue is pledged for payment of a revenue bond include provisions that allow the local political subdivision to independently assess the ability of the private entity to meet its financial obligations. The bill also required the independent assessment to be performed using audited financial statements provided by the private entity.

Municipal Implication:
The bill would have required city and towns to audit the financial strength of all private entities for which a contract or agreement is entered into where the proceeds of such a contract are used to back bonds. Due to the extensive public private partnerships that exist in Utah we were concerned over the cost associated with such a request. In addition most public entities are already reviewing the financial strength of private company partners before entering into a contract, the Policy Committee felt that this bill was burdensomely redundant.

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SB-258 Substitute
Revenue Bonds– Auditing of Public-private Contracts

Sponsor: Sen. Curt Bramble

Bill Status: Did not pass

ULCT Position: Oppose

Purpose of the Bill:
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Utah League of Cities and Towns

SB-267 Substitute
Changes to Local Government Provisions

Sponsor: Sen. L. Alma Mansell

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill modifies the Impact Fees Act and LUDMA. It expands the definition of "public safety facility" in the Impact Fees Act to include large, expensive fire trucks (fire suppression vehicles with a ladder reach of at least 75 feet, costing in excess of $1,250,000, that is necessary for fire suppression in commercial areas with one or more buildings at least five stories high). The bill describes the method by which costs for administrative overhead may be included in impact fees and limits cost projections to "realistic estimates", with the assumptions underlying those estimates included in the impact fee analysis. It also requires that impact fee collections and expenditures be reported in each municipality's annual financial report. These provisions are intended to facilitate state audits of municipal compliance with the strict cost accounting, collection and expenditure rules already in place in the Impact Fees Act. The bill expands the definition of "affected entities" in LUDMA to include persons who request notice of land use matters. This provision is intended to protect absentee land owners who do not peruse the local papers for notice of general plan or land use ordinance changes. The bill requires that applicants receive staff reports pertaining to their applications at least three days in advance of the meeting pertinent to the report. It also allows the applicant to waive the three day rule. The bill codifies a common law rule that applications be processed with "reasonable diligence". This rule is intended to prevent jurisdictions from simply not processing applications they receive, or from dawdling on applications.

Want to See the Full Text?
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SB-267 Substitute
Changes to Local Government Provisions

Sponsor: Sen. L. Alma Mansell

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ULCT Position: Support

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Want to See the Full Text?
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SB-268 Substitute
Property Rights Ombudsman

Sponsor: Sen. L. Alma Mansell

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
This bill is intended to provide a process for selecting and empowering a neutral third party to provide a quick written advisory opinion of a land use dispute and thereby convert the dispute into a "loser pays" scenario should the dispute digress further into litigation. The concept was launched in response to the notion that time is money; that often, land use disputes are unlitigated, not because everything is done properly, but because time is money and that typically a municipality is caught in the middle between an applicant and the neighbors. Under this new system, at any time before a final decision on a land use application, any party can request a written neutral third party opinion by filing a request with the Office of the Property Rights Ombudsman and paying a small fee. The Office first assesses whether the dispute is one involving specific administrative provisions of LUDMA (conditional use, vested rights, exactions, reasonable diligence, building permit fees and non-conforming uses) or the Impact Fees Act and if so, then asks if the disputing parties can agree on a neutral. If the parties cannot agree on a neutral third party, the Office will appoint a neutral, within four business days, from a list of qualified individuals that has been approved by a new Land Use and Eminent Domain Advisory Board. The appointed neutral will inquire of the parties and will issue a written assessment within 15 business days. The advisory opinion is not binding on any party. However, if the advisory opinion is that the behavior of one party is wrong, and that party persists in the behavior despite the written advice, that party will be liable for the opposing party's attorneys fees from the date of the

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SB-268 Substitute
Property Rights Ombudsman

Sponsor: Sen. L. Alma Mansell

Bill Status: Passed

ULCT Position: Support

Purpose of the Bill:
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Utah League of Cities and Towns

SB-268 Substitute
Property Rights Ombudsman — continued

written opinion forward, if the issue is litigated on the same facts and a court decides the matter consistent with the opinion of the neutral third party ("loser pays"). The bill is intended to "raise the stakes" for obvious land use inequities and thereby correct behavior. It should diminish the frequency of the parade of horribles that the legislators hear about local land use matters.

The bill creates a Land Use and Eminent Domain Advisory Board to be appointed by the governor, upon the recommendation of the development and the regulatory communities. In addition to approving the list of neutral third parties, the Board will have oversight over the Office of the Property Rights Ombudsman in most matters. The Office will be housed in the Department of Commerce, rather than its initial home in the Department of Natural Resources and will focus on training and seminars.

The bill appears to do far more than has been described. However, the takings and eminent domain (arbitration and mediation) provisions of the bill are simply a recodification of existing law and do not change those provisions in any respect.

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SB-268 Substitute
Property Rights Ombudsman — continued

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TASKFORCES AND ISSUES TO COME

TASKFORCES AND MASTER STUDY ITEMS:

1. Uniform Sales and Use Tax Rate
2. Truth-In-Taxation Advertisement
3. Tax Base Expansion to Include Services
4. Municipal Disconnections
5. Anti-Trust Exemptions for Political Subdivisions
6. Plea and Abeyance Fees and Charges
7. Referendums
8. Open and Public Meetings
9. City School Districts

ISSUES TO COME:

1. Additional Scrutiny of Local Gov. Services and Revenue
2. Land Use Powers
3. Assessment and Possible Reduction of the Telecom Gross Receipts Tax
4. Revenue Generation in the Justice Court System
5. Retirement – Defined Benefit or Defined Contribution
6. Future Discussion of Energy Sales Tax Assessment
7. Continuation of Governmental Immunity Discussion
8. Potential Additional Reductions of Sales Tax on Food
9. Eminent Domain Discussions

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Utah League of Cities and Towns

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Notes

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Utah League of Cities and Towns

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