

Legislative Policy Committee Minutes

February 29, 2016

The State Capitol

Mayor Steve Hiatt of Kaysville opened the meeting and welcomed everyone. Paul from Riverton made the motion to approve February 22 minutes and Don Christiansen from WVC 2nd that motion. Minutes approved.

Cameron Diehl with the League and Police Chief Ross talked about body worn cameras.

2 things we have negotiated: policy (codified minimum standards) for when the camera is in use or POST (model policy) and the 2nd is the GRAMA piece. Language on screen reflects attempted compromise. Biggest accomplishment is that the substitute bill would presume privacy in the home. We have been lobbying for public interest and your citizens. Presumption does not apply for the following (private):

- Depicts commission of a crime

- An encounter between an officer and person that results in death or bodily injury (including when officer fires a weapon)

- An encounter that is the subject of a complaint against an officer

- Contains an officer involved critical incident (defined in state law)

- Has been requested to be classified

These were compromised between ULCT, UAC, Chiefs of Police Association, Sherrifs Association, ACLU and the media coalition.

Some push back from LELC on this framework. Chief Ross: body cameras are the answer for the public to show we are doing the right thing. If you want the truth body cameras are the answer. Transparency and privacy have been huge throughout this. We think we have something unprecedented here with privacy. That's important. Everyone on all sides can still be protected under the protected records side. Chief Ross stated he doesn't like the POST option anymore because administrative rules committee (we can make recommendations but that's all) can change POST at any time and this is an area that should be in statute. Most chiefs and those working closely on this issue, as of lately, feel the same way. POST has some risks.

Outline by Cameron Diehl of HB300 Body-worn cameras for Law Enforcement Officers: Minimum Standards:

- Officer should not jeopardize hi/her safety or safety of others in order to activate/de-activate body-worn camera

- Officer shall activate the camera prior to any law enforcement encounter or as soon as reasonably possible:

 - enforcement stops

 - dispatched calls

- field interviews
- use of force
- warrants
- traffic stops
- other contact that becomes adversarial
- Officer shall verify that camera is functioning properly
- Officer shall wear camera so that it is “clearly visible”
- Officer shall record his/her name on footage
- Officer shall document that camera was present during encounter
- Officer shall record in an uninterrupted manner except
 - to consult with another officer
 - during period of inactivity
 - during conversation with a sensitive crime victim, witness or informant if the individual requests de-activation and the officer believes the value of the potential information to outweigh the value of the recording
- Officer shall document the reason for deactivating
- Officer shall give notice (if reasonable) upon entering a home and “clearly visible” camera qualifies as notice
- Officer may not use cameras for personal use

As long as officers are wearing the camera and it can be seen that qualifies as notice. Well over 90% of agencies that responded to our survey show they are compliant with these requirements, only a few departments that would have to make slight changes to comply with HB300.

POST vs codified approach. Within SB94 POST develops a model policy that must include:

- When to activate camera (HB300)
- When to de-activate camera (HB300)
- Who may review the record (HB300 GRAMA partially covers)
- How the video may be released (HB300 GRAMA partially covers)
- When to wear (not in HB300)
- Retention schedule (not in HB300)
- Who is authorized to access the record (not in HB300)

-Disciplinary procedures for failing to record (not in HB300)

POST would set the policy via administrative rule subject to the Admin. Rules Review Comm.

Back to GRAMA piece, 1 piece some LELC members had problems with: from sherrifs, DPS and attorney general. These groups have concerns about classifying the body-worn footage as public. Every public record has potential to become public unless specifically listed as private. From political persepective: Body-worn camera footage would be public line in the substitute bill is a deal breaker for some. From League staff position: we feel comfortable with language in bill, it is circled on the floor.

Jon Brems from Herriman: What's the argument to have it not be public? Public record why are police chiefs concerned? It gives increased ability to make something public. We disagree from attorney general standpoints. By having this spelled out in GRAMA it gives an increase in footage becoming public. This might be deal breaker for McCay. We disagree with attorney general office's view.

Adam Cowie from Lindon: Negotiated out the retention schedule? Yes, we have reached out to archives and Cindi Mansell (our voice for the archives), she will work with archives on the retention issue separate from the state law.

Gary Williams from Ogden: It's worth explaining their point of view; GRAMA statute says everything is public unless it's something else. Then they have a category that has 5 different things that say these things are almost always public unless you can show specifics that it's not. They are putting body cams into that category of group of 5 expressly public things-these will almost always be public. Somehow that won't be as strong as other things that are private, that's their point of view and it's something we need to decide on.

Discussion put on hold to hear from 3 legislators listed below:

Senator Bramble, Senator Harper, Representative McKell: HB235 Remote Transactions Parity Act and SB182 Sales and Use Tax Revisions. HB235 would expand the definition of affiliate nexus and SB182 would expand the definition of a retailer's physical presence.

Map of states of what's happening nationally. National Conference of State Legislators, this is their top priority. 2 years ago, we encouraged states across the country to try and collect online sales tax. Unanimous position to (38 states) strategize is to add legislation and the 2nd is to challenge state statute-it's a bad law and questionable. Nationally now: states across country are moving on legislation. We are winning court cases on this. Talked about case in Colorado. Senator Bramble spoke with the Chair of the House Judiciary Committee Bob Goodlatte about HR 2775 Remote Transactions Parity Act (sponsored by Congressman Jason Chaffetz) The Chairman said he doesn't want to make it public yet because it would get push back from the public. In the absence of congressional action states are doing something. 18 states have introduced legislation this winter that expands a state's definition of nexus in order to capture more businesses that would be required to collect and remit applicable sales taxes, expand collection requirements, expand a state's reporting requirements, or enact legislation with the intent of reversing the 1992 Supreme Court Quill decision.

Trent from Riverton city council: any transaction made online charged sales tax? Yes and no, McKell depends on where transaction takes place.

Overstock.com collects sales tax for Utah because they reside in Utah. A company's partner affiliate of company in Utah we will collect for the state (affiliate nexus). It's time for cities to get involved. If you buy tangible personal property that tax is owed. We need a federal solution but Utah needs to take charge. It will be a nasty fight on the floor.

Senator Harper: bill (SB182) a little different than Rep. McKell's. Economic nexus: business relationship with outside entity that doesn't have a physical address in Utah. Tax that we are obligated to remit. Creating tools to create due taxes. Also creates expedited challenge process, if you want to challenge bill it goes directly to the Utah Supreme Court and doesn't have to go through all the courts in the system. Congressman Womack and Congressman Chaffetz bills have not had hearings. They need to deal with bill and not let it sit there. Get Congress to act; Federal solution is much better.

McKell on software: if you use certified software, you are exempt from audit. Amazon collects in 22 states already; these are big states they collect for. Make sure the facts are out there for the public and represent the State in a correct way. My bill affects sales tax rate. Additional revenue to cities?? Yes it will. Want all transactions to be equal for all businesses. Software tracks by zip codes to distribute the tax revenue.

Questions

Lynn pace Holladay: are these the 2 bills on our radar screen? Yes

This is a top priority for the League and we support this. Motion to support these bills made by Lynn Pace. 2nd by Joann Seghini of Midvale.

Cameron: the League supports the bill and we have spoke in committees in support for these bills. We are engaged with retailers as well.

McKell: it was unanimous in the Senate but we will have a fight in the House and I need your help. Please get the League Army engaged.

Brody Bovero from Syracuse: Is tax on purchaser's zip or vendors? On the Purchaser

Trent from Riverton: if you can identify zip code your revenue stays the exact same, if not its distributed across the board? Yes

Clearfield: affiliate side?? McKell: how does it affect bloggers? You have to make a sale. It wouldn't apply on my bill. The commissions are extremely low for bloggers, and they are not selling directly.

Software collects and distributes where it gets distributes.

Lynn Pace: we are already supporting it, requests elected officials to contact their legislators and send a message to recreate a mechanism to collect tax out there that's already collected. Not a new tax and send this message to the public.

Back to body camera debate:

Neutral right now and do we want to support bill with the amendments?

Steve Fairbanks from Sandy: officer failed to turn on camera because enacting it could make it hard for him if a weapon is pulled. Cameron answered: shall not injure himself/herself or others just to turn on

camera (this is how the bill opens). Is no rebuttable presumption in this bill, different from last year's bill. LELC supports this bill with amendments.

Ogden Mark Johnson: same position as LELC and 2nd by Jon Pike of St. George. Voted on and

Mayor Centerville: difference between police chiefs and LELC. Within LELC there are Chiefs of Police, Sherrif's association, DPS, Attorney General, DNR; its broader than just chiefs. Police chiefs are supportive of 300, LELC supportive with amendments (1 line of GRAMA).

Sonya Norton from Vernal: supported SB94 too, supporting both bills?? Cameron-1 bill in Senate and 1 in House. HB300 has GRAMA language with privacy, Senate bill doesn't have that language in the bill but it could. From league staff perspective, if supportive of both bills it forces Legislators to debate these and chose which one without using us.

Jensen North SL: why are we throwing out POST approach? Because GRAMA wording is better? Cameron-we support both bills and legislature will need to engage on this. POST has defined 2 policies for search warrants and pursuit. Only way to accomplish consistency, it needs to go through Admin. Rules process (committee of 10 legislators) but it can still be tweaked by them. HB300 are now to where most departments are compliant. Only the 3rd time POST has been called on to create a model policy. Both bills have legislative oversight.

Ron Bigelow from WVC: we as a group voted to be neutral on HB300 and our recommendation was to find language that is acceptable to us. If Thatcher's bill passes we can live with it. Staff has done just what we have asked them to do. We should step up and support bill HB300. Motion to support HB300? Yes. Unanimously passed.

Short term rentals by Jodi Hoffman and Ken Bullock from the League:

Jodi and myself, with numerous others, have had many conversations with Representative Knottwell and he has agreed, with our support, to send his bill to interims and study it this summer. I encourage you to do so. I find the Representative to be a man of his word. It will be incumbent upon us to do a lot of work. As we have talked about the last 3 issues (body cameras, online sales tax, short term rentals, Airbnb, we will talk about autonomous vehicles in the not too far future). The way we look at governance in your community will change dramatically and this is a particular issue to show the legislature that they can and should work with us.

Jodi: fairly dramatic shift in legislature approach, it would have put us out in front of international curve. Disturbing trends in preemption local land use 6 bills are HB115 going to interim, HB132 business licensing, HB409, SB73, HB413, HB223, HB161. 32 land use bills this year, only 4 have been over looked by the Land Use Task Force.

Other trend is to mandate changes without LUTF review: HB360 will lead to so many different interpretations, HB414, SB187, municipal historic land use amendments, HB10 and SB44.

Please have dialogue with legislators about how your citizens feel about land use and local zoning. We see need to use interim process to give committees more insight into why we care and what is important.

Looking for motion to support Knottwell on his decision to hold the bill: Jon Pike from St. George and 2nd by Gil Miller.

John Hiskey from Sandy: pleased to hear that there will be ongoing dialogue so thank you to the staff.

Voted on motion and passed unanimously.

HB180 by Roger Tew from the League:

Tax base the same for everything but food right now. Tax final output of item. Pressure to move line: where do we come up with money to pay for this (the enormous fiscal note drives this bill to keep coming up year after year). We oppose these bills because not enough money. Why do they want to do this? Bring new economic activity to Utah if passed. We are aware of this and watching it, spoke against it and it's always there, it will come back next year. If it starts to move we will be engaged in dialogue.

Cameron: SB196 reusable bag bill

It passed out of Senate committee.

Sandy Fairbanks from Sandy: UAC supports bill-Yes, ULCT is neutral on this.

Melinda Pleasant View: include produce bags?? No it does not include those

Thanks to Scott from USU for the ability for us to broadcast LPCs.

Gary Crane from Bountiful: bill in committee tomorrow HB399, victims advocates. Incredibly valuable systems. This bill seeks to take that away. It's a bad bill, HB381 bad as well. Put a call into committee members if you know them. Those who have victim advocate groups raise hands and there were quite a few. Email Cameron and he will get it to John Hiskey who is collecting arguments for the committee hearing.

HB333 e cigarette tax: support bill if you can individually.

Time to engage league army. Working closely on the vote counts. Most effective vote count is directly from city to legislator. HB235 and SB182 need work from us.

SB235 Local district Tax Revisions: if you have a special service district it will change how they handle property tax. This bill requires you to go back to council to get approval before any property tax increase could take effect. As staff we have concerns about the bill.

Vice president from special districts: please oppose the bill.

Lynn Pace: it is late in session and significant shift in policy but it probably won't pass and this representative wants to initiate dialogue. He intends to return governing authority to elected officials. Please monitor bill. Unelected boards to have right to increase property tax? It's a great discussion topic.

Meet next Monday?? From Steve Hiatt. Yes meet.

Ken Bullock talked about being on our team and trusting us to have your best interest in heart and mind. We have to make decisions on our own sometimes without your approval and you have to trust us. Also discussed not contacting legislators because you have questions for us. Please ask us and call us with questions you have.

Adjourn motion by Gil Miller and 2nd by Melinda Brimhall.