

Resolution 2018-002

(A) Resolution about proposed changes to the Utah State Constitution about municipal authority over water rights and water supply

(B) We, the members of the Utah League of Cities and Towns find:

Whereas, water is a precious, finite, and irreplaceable resource essential to the wellbeing of all residents and to the economic vitality of the state; and

Whereas, cities and towns who operate culinary water systems are responsible for ensuring that residents have access to sufficient water supplies; and

Whereas, cities and towns that supply culinary water directly to end users are responsible for setting reasonable rates for the water usage; and

Whereas, the Utah State Legislature in 2018 passed a resolution assigning the Natural Resources, Agriculture and Environment Interim Committee to consider a proposal to amend the Utah Constitution Article 11 Section 6, which forbids municipalities from selling waterworks or water rights; and

Whereas, the Director of the Utah Department of Natural Resources appointed members to four study groups to study and make recommendations to the Legislature on a variety of water issues; and

Whereas, the Constitutional Amendment study group, which included members of the Utah League of Cities and Towns, has drafted a proposed amendment to Article 11 Section 6 of the Utah Constitution; and

Whereas, the proposed amendment has achieved consensus by all members of the study group and is attached hereto; and

Whereas, the surplus water study group, which included members of the Utah League of Cities and Towns, is working on companion legislation to the proposed amendment to provide additional clarity to retail service outside of a town or city boundary.

(C) THEREFORE, we, the members of the ULCT resolve that:

1. Utah cities and towns support the attached proposed amendment to Article 11 Section 6 of the Utah State Constitution.
2. Utah cities and towns support the narrow ability for a municipality to convey waterworks to another governmental entity that is a public water supplier.
3. Utah cities and towns support equal protection for all water customers within a designated water service area established by a municipality.

4. Utah cities and towns support increased transparency and opportunities for public input regarding retail water rates in a designated water service area.
5. Utah cities and towns oppose any state effort to oversee or regulate the municipal legislative responsibility of setting water rates or the designation of designated water service areas.
6. Utah cities and towns support the continued ability of municipalities to protect all of their sources of culinary water from contamination.

Submitted by:

ULCT Board of Directors

September 11, 2018

SECTION 1:

10-8-14 Utility and telecommunications services -- Service beyond municipal limits -- Retainage -- Notice of service and agreement.

(1) As used in this section, “public telecommunications service facilities” means the same as that term is defined in Section 10-18-102.

(2) A municipality may:

(a) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, telecommunications lines, cable television lines, public transportation systems, or public telecommunications service facilities;

(b) authorize the construction, maintenance and operation of the works or systems listed in Subsection (2)(a) by others;

(c) purchase or lease the works or systems listed in Subsection (2)(a) from any person or corporation; and

(d) sell and deliver the surplus product or service capacity of any works or system listed in Subsection (2)(a), not required by the municipality or the municipality’s inhabitants, to others beyond the limits of the municipality, except the sale and delivery of:

(i) retail electricity beyond the municipal boundary is governed by Subsections (3) through (8); ~~and~~

(ii) cable television services or public telecommunications services is governed by Subsection (12); ~~and~~

(iii) water is governed by Section 10-7-14 and Section 10-8-22.

..... (section continues beyond this point, but no changes proposed to the rest of 10-8-14).

SECTION 2:

10-7-14. Rules and regulations for use of water – Adoption of designated water service area.

(1) For purposes of this section:

(a) “Retail customer” means an end user who receives culinary water directly from a municipality’s waterworks system and is billed by the municipality for water service.

(b) “Waterworks system” means municipally owned collection, treatment, storage and distribution facilities for culinary or irrigation water, including pipes, hydrants and appurtenances, but does not include water rights or sources of water supply such as wells, springs, streams or shares in a mutual irrigation company.

(2) A municipality [~~Every city and town~~] may enact ordinances, rules and regulations for the management and conduct of the waterworks system owned or controlled by it.

(3) A municipality that provides water service to retail customers outside of its political boundaries shall:

(a) create and maintain a map or maps showing its designated water service area and any other areas outside of its political boundaries where retail customers receive water service from the municipality and shall:

(i) transmit a copy of the map or maps to the state engineer; and

(ii) post the map or maps on its website if it has more than 500 retail customers;

(b) define, by ordinance, those areas included in its designated water service area;

(c) adopt by ordinance the municipality’s rules and regulations applicable to its designated water service area and to retail customers located outside of its designated water service area; and

(d) adopt, by ordinance, reasonable water rates for retail customers in its designated water service area as provided in Section 10-8-22.

- (4) Within its designated water service area, a municipality shall:
 - (a) provide service to all retail customers in a manner consistent with principles of equal protection; and
 - (b) apply restrictions on water use to all retail customers in times of anticipated or actual water shortages in a manner consistent with principles of equal protection.
- (5) Nothing in this section:
 - (a) precludes a municipality from enacting service or other restrictions affecting localized areas or the entire area of its designated water service area based on operational or maintenance needs, emergency situations, or to address health, safety and general welfare needs;
 - (b) expands or diminishes the ability of a municipality to enter into a contract to supply water outside of the municipality's designated water service area; or
 - (c) alters the authorities or definitions set forth in Title 19, Chapter 4, Safe Drinking Water Act.
- (6) A municipality may not sell or convey an interest in part or all of its waterworks system except to a public entity as defined in Section 73-1-4(1).

SECTION 3:

10-8-22 Water rates.

- (1) For purposes of this section:
 - (a) "Large municipal drinking water system" means a municipally owned and operated drinking water system serving a population of 10,000 or more.
 - (b) "Retail customer" has the same meaning as provided in Section 10-7-14.
- (2) A municipality shall [~~They may~~] fix the rates to be paid for the use of water furnished by the [~~city~~] municipality.
- (3) The setting of municipal water rates is a legislative act.
- (4) Within its designated water service area, a municipality shall:
 - (a) establish, by ordinance, reasonable rates for the services provided to its retail customers;
 - (b) use the same method of providing notice to all retail customers of proposed rate changes;
and
 - (c) allow all retail customers the same opportunity to appear and participate in public meetings addressing water rates.
- (5) A municipality may establish different rates for different classes of retail customers within its designated water service area if such treatment has a reasonable basis.
 - (a) A reasonable basis for charging different rates may include, among other things:
 - (i) Differences in the cost of providing service to a particular class;
 - (ii) Whether one class bears more risk in relation to system operations or obligations;
 - (iii) Investments made by one class to acquire water sources and supply or build or maintain the system that are different from another class;
 - (iv) Needs or conditions of one class that are distinguishable from the needs or conditions of another class and, based on economic, public policy or other identifiable elements, support a different rate; and
 - (v) A differential based on other cost of service standards or industry accepted rate setting methods.
 - (b) A reasonable basis for charging a different rate does not include an adjustment based solely on the fact that a particular class is located either inside or outside of the municipality's corporate boundary without further justification.

- (6) If more than ten percent of the retail customers within a large municipal drinking water system's designated water service area are located outside of the municipality's corporate boundary, the municipality shall:
- (a) post on its website the rates assessed to retail customers within the designated water service area;
 - (b) establish an advisory board to make recommendations to the municipal legislative body for water rates, capital projects and other water service standards;
 - (c) include on the advisory board representatives of retail customers within the designated water service area whose connections are located outside of the municipal boundary as follows:
 - (i) If more than ten percent but less than thirty percent of the retail customers are outside of the municipal boundary, then a minimum of twenty percent of the advisory board members shall represent such customers; or
 - (ii) If thirty percent or more of the retail customers are outside of the municipal boundary, then a minimum of forty percent of the advisory board members shall represent such customers; and
 - (d) solicit recommendations for the representatives described in subsection (6)(c) from any municipality and county whose residents are retail customers within the designated water service area.
- (7) A municipality that supplies water outside of its designated water service area shall do so only by contract and shall include in the contract the terms and conditions under which the contract may be terminated.
- (8) A municipality shall notify the Director of the Division of Drinking Water of the contracts it has entered into outside of its designated water service area, including the name and contact information of the person or entity named in each contract, and shall provide an annual supplement with new or additional information.

Section 4: New Section

73-5-16: The state engineer shall publish conspicuously on the state engineer's website the map or maps submitted by a municipality pursuant to Section 10-7-14(3)(a).

Section 5. Delayed Effective Date

This bill takes effect on January 1, 2021, if the amendment to the Utah Constitution proposed by *****, 2019 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

Utah Retirement Systems
Preliminary Tier 1 Retirement Contribution Rates as a Percentage of Salary and Wages
Fiscal Year July 1, 2019 - June 30, 2020

	Preliminary Tier 1 2019-2020 RATES						Increase (Decrease) From Prior Year
	(1) Employee	(2) Employer	(3) Normal cost (1) + (2)	(4) Amortization of UAAL *	(5) Net Employer (2) + (4)	(6) Total (3) + (4)	
Public Employees							
Contributory Retirement System							
11- Local Government	6.00	6.09	12.09	8.37	14.46	20.46	0.00
12- State and School **	6.00	5.45	11.45	12.25	17.70	23.70 ^{1,2}	0.00
17- Higher Education	6.00	5.45	11.45	12.25	17.70	23.70 ^{1,2}	0.00
Public Employees							
Noncontributory Retirement System							
15- Local Government	-	11.86	11.86	6.61	18.47	18.47	0.00
16- State and School **	-	12.25	12.25	9.94	22.19	22.19 ^{1,2}	0.00
18- Higher Education	-	12.25	12.25	9.94	22.19	22.19 ^{1,2}	0.00
Public Safety							
Contributory Retirement System							
Division A							
23- Other Division A With 2.5% COLA	12.29	11.02	23.31	11.77	22.79	35.08	0.00
77- Other Division A With 4% COLA	12.29	11.44	23.73	12.93	24.37	36.66	0.00
Division B							
29- Other Division B With 2.5% COLA	10.50	13.04	23.54	9.77	22.81	33.31	0.00
74- Other Division B With 4% COLA	10.50	13.04	23.54	15.94	28.98	39.48	0.00
Public Safety							
Noncontributory Retirement System							
Division A							
42- State With 4% COLA	-	22.89	22.89	18.46	41.35	41.35 ¹	0.00
43- Other Division A With 2.5% COLA	-	22.29	22.29	11.75	34.04	34.04	0.00
75- Other Division A With 4% COLA	-	22.80	22.80	12.91	35.71	35.71	0.00
48- Bountiful With 2.5% COLA	-	23.49	23.49	26.89	50.38	50.38	0.00
Division B							
44- Salt Lake City With 2.5% COLA	-	22.51	22.51	24.20	46.71	46.71	0.00
45- Ogden With 2.5% COLA	-	22.42	22.42	26.30	48.72	48.72	0.00
46- Provo With 2.5% COLA	-	22.62	22.62	19.61	42.23	42.23	0.00
47- Logan With 2.5% COLA	-	22.60	22.60	19.37	41.97	41.97	0.00
49- Other Division B With 2.5% COLA	-	22.62	22.62	9.66	32.28	32.28	0.00
76- Other Division B With 4% COLA	-	23.03	23.03	15.94	38.97	38.97	0.00
Firefighters' Retirement System							
Division A							
Gross Rate	15.05	11.68	26.73	3.99	15.67	30.72	0.00
Insurance Premium Offset	0.00	(2.49)	(2.49)	(3.99)	(6.48)	(6.48)	4.58
31- Net rate	15.05	9.19	24.24	-	9.19	24.24	4.58
Division B							
Gross Rate	16.71	9.80	26.51	8.50	18.30	35.01	0.00
Insurance Premium Offset	0.00	0.00	0.00	(6.48)	(6.48)	(6.48)	4.58
32- Net rate	16.71	9.80	26.51	2.02	11.82	28.53	4.58
Judges' Retirement System							
Gross Rate	-	31.60	31.60	20.31	51.91	51.91 ¹	0.00
Court Fees Offset	-	0.00	0.00	(8.16)	(8.16)	(8.16)	0.07
37- Net rate- Noncontributory	-	31.60	31.60	12.15	43.75	43.75 ¹	0.07
Governors and Legislative							
14- Appropriation Payable by June 30, 2019					\$369,226	\$369,226	\$ (14,877)

¹ Includes funding of 3% Substantial Substitute based on salaries for all state and school employees.

² Does not include 1.5% 401(k).

* Amortization of Unfunded Actuarial Accrued Liability (UAAL)

** Public School Districts and Charter School rates are effective September 1, 2019 - August 31, 2020

Utah Retirement Systems
Preliminary Tier 2 Retirement Contribution Rates as a Percentage of Salary and Wages
Fiscal Year July 1, 2019 - June 30, 2020

	Preliminary Tier 2 Hybrid Retirement System					Preliminary Tier 2 Defined Contribution Plan				Increase (Decrease) From Prior Year	
	(1) Employer Tier 2 Rate	(2) Hybrid Plan DB Plan Rate	(3) Hybrid Plan DC Plan Rate (1)-(2)	(4) Death Benefit*	(5) Tier I Amortization %	(6) Total (1)+(4)+(5)	(1) Employer Tier 2 Rate	(2) Death Benefit*	(3) Tier I Amortization %		(4) Total (1)+(2)+(3)
Public Employees											
Contributory Retirement System											
11- Local Government	10.00	8.97	1.03	0.08	8.37	18.45	10.00	0.08	8.37	18.45	0.00
Public Employees											
Noncontributory Retirement System											
15- Local Government	10.00	8.97	1.03	0.08	6.61	16.69	10.00	0.08	6.61	16.69	0.00
16- State and School ¹	10.00	8.97	1.03	0.08	9.94	20.02	10.00	0.08	9.94	20.02	0.00
18- Higher Education	10.00	8.97	1.03	0.08	9.94	20.02	10.00	0.08	9.94	20.02	0.00
Public Safety											
Contributory Retirement System											
23- Other Division A (2.5% COLA)	12.00	11.30	0.70	0.08	11.77	23.85	12.00	0.08	11.77	23.85	0.00
77- Other Division A (4.0% COLA)	12.00	11.30	0.70	0.08	12.93	25.01	12.00	0.08	12.93	25.01	0.00
29- Other Division B (2.5% COLA)	12.00	11.30	0.70	0.08	9.77	21.85	12.00	0.08	9.77	21.85	0.00
74- Other Division B (4.0% COLA)	12.00	11.30	0.70	0.08	15.94	28.02	12.00	0.08	15.94	28.02	0.00
Public Safety											
Noncontributory Retirement System											
42- State	12.00	11.30	0.70	0.08	18.46	30.54	12.00	0.08	18.46	30.54	0.00
43- Other Division A (2.5% COLA)	12.00	11.30	0.70	0.08	11.75	23.83	12.00	0.08	11.75	23.83	0.00
75- Other Division A (4.0% COLA)	12.00	11.30	0.70	0.08	12.91	24.99	12.00	0.08	12.91	24.99	0.00
44- Salt Lake City	12.00	11.30	0.70	0.08	24.20	36.28	12.00	0.08	24.20	36.28	0.00
45- Ogden	12.00	11.30	0.70	0.08	26.30	38.38	12.00	0.08	26.30	38.38	0.00
46- Provo	12.00	11.30	0.70	0.08	19.61	31.69	12.00	0.08	19.61	31.69	0.00
47- Logan	12.00	11.30	0.70	0.08	19.37	31.45	12.00	0.08	19.37	31.45	0.00
48- Bountiful	12.00	11.30	0.70	0.08	26.89	38.97	12.00	0.08	26.89	38.97	0.00
49- Other Division B (2.5% COLA)	12.00	11.30	0.70	0.08	9.66	21.74	12.00	0.08	9.66	21.74	0.00
76- Other Division B (4.0% COLA)	12.00	11.30	0.70	0.08	15.94	28.02	12.00	0.08	15.94	28.02	0.00
Firefighters' Retirement System											
31- Division A**	12.00	11.30	0.70	0.08	0.00	12.08	12.00	0.08	0.00	12.08	0.00
32- Division B**	12.00	11.30	0.70	0.08	2.02	14.10	12.00	0.08	2.02	14.10	2.02

* Employer paid active member death benefit (75% of salary) per Utah Code Section 49-22-501 and 49-23-501.

** For Firefighters, the fire insurance premium offset was applied first to the amortization charge, leaving no amount owed to Tier 1 by employers for Tier 2 Firefighters

1 Public School Districts and Charter School rates are effective September 1, 2019 - August 31, 2020

Utah Retirement Systems
Preliminary Condensed Retirement Contribution Rate Guide
Fiscal Year July 1, 2019 - June 30, 2020

	Tier 1 DB System			Tier 1 Post Retired			Tier 2 - DB Hybrid System			Tier 2 - DC Plan				
	Contribution Reporting Fields			Post Retired Employment after 6/30/2010 - NO 401(k) Amortization of UAAL**	Post Retired Employment before 7/1/2010 Optional 401(k) Cap	Contribution Reporting Fields			Contribution Reporting Fields					
	Employee	Employer	TOTAL			Tier 2 Fund	Employer	401(k)	TOTAL	Tier 2 Fund	Employer	401(k)	TOTAL	
Public Employees														
Contributory Retirement System														
11- Local Government	6.00	14.46	20.46	8.37	12.09		111	17.42	1.03	18.45	211	8.45	10.00	18.45
12- State and School ¹	6.00	17.70	23.70	12.25	11.45		111	15.66	1.03	16.69	211	6.69	10.00	16.69
17- Higher Education	6.00	17.70	23.70	12.25	11.45		112	18.99	1.03	20.02	212	10.02	10.00	20.02
							117	18.99	1.03	20.02	217	10.02	10.00	20.02
Public Employees														
Noncontributory Retirement System														
15- Local Government	-	18.47	18.47	6.61	11.86		122	23.15	0.70	23.85	222	11.85	12.00	23.85
16- State and School ¹	-	22.19	22.19	9.94	12.25		122	24.31	0.70	25.01	222	13.01	12.00	25.01
18- Higher Education	-	22.19	22.19	9.94	12.25		122	21.15	0.70	21.85	222	9.85	12.00	21.85
							122	27.32	0.70	28.02	222	16.02	12.00	28.02
Public Safety														
Contributory Retirement System														
Division A														
23- Other Division A With 2.5% COLA	12.29	22.79	35.08	11.77	23.31		122	29.84	0.70	30.54	222	18.54	12.00	30.54
77- Other Division A With 4% COLA	12.29	24.37	36.66	12.93	23.73		122	23.13	0.70	23.83	222	11.83	12.00	23.83
Division B														
29- Other Division B With 2.5% COLA	10.50	22.81	33.31	9.77	23.54		122	24.29	0.70	24.99	222	12.99	12.00	24.99
74- Other Division B With 4% COLA	10.50	28.98	39.48	15.94	23.54		122	38.27	0.70	38.97	222	26.97	12.00	38.97
Public Safety														
Noncontributory Retirement System														
Division A														
42- State With 4% COLA	-	41.35	41.35	18.46	22.89		122	35.58	0.70	36.28	222	24.28	12.00	36.28
43- Other Division A With 2.5% COLA	-	34.04	34.04	11.75	22.29		122	37.68	0.70	38.38	222	26.38	12.00	38.38
75- Other Division A With 4% COLA	-	35.71	35.71	12.91	22.80		122	30.99	0.70	31.69	222	19.69	12.00	31.69
48- Bountiful With 2.5% COLA	-	50.38	50.38	26.89	23.49		122	30.75	0.70	31.45	222	19.45	12.00	31.45
Division B														
44- Salt Lake City With 2.5% COLA	-	46.71	46.71	24.20	22.51		122	21.04	0.70	21.74	222	9.74	12.00	21.74
45- Ogden With 2.5% COLA	-	48.72	48.72	26.30	22.42		122	27.32	0.70	28.02	222	16.02	12.00	28.02
46- Provo With 2.5% COLA	-	42.23	42.23	19.61	22.62		122							
47- Logan With 2.5% COLA	-	41.97	41.97	19.37	22.60		122							
49- Other Division B With 2.5% COLA	-	32.28	32.28	9.66	22.62		122							
76- Other Division B With 4% COLA	-	38.97	38.97	15.94	23.03		122							
Firefighters' Retirement System														
Division A														
31- Division A	15.05	9.19	24.24	-	24.24		132	11.38	0.70	12.08	232	0.08	12.00	12.08
Division B														
32- Division B	16.71	11.82	28.53	2.02	26.51		132	13.40	0.70	14.10	232	2.10	12.00	14.10
Judges' Retirement System														
37- Judges' Noncontributory	-	43.75	43.75											

* Does not include the required 1.5% 401(k) contribution.

** Unfunded Actuarial Accrued Liability

1. Public School Districts and Charter School rates are effective September 1, 2019 - August 31, 2020

Suggested Language Regarding Towing

LPC, October 15, 2018

72-9-603.5

(1) A political subdivision of this state that utilizes a system of rotating among multiple tow truck motor carriers for the removal or impoundment of a vehicle, vessel, or outboard motor as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority:

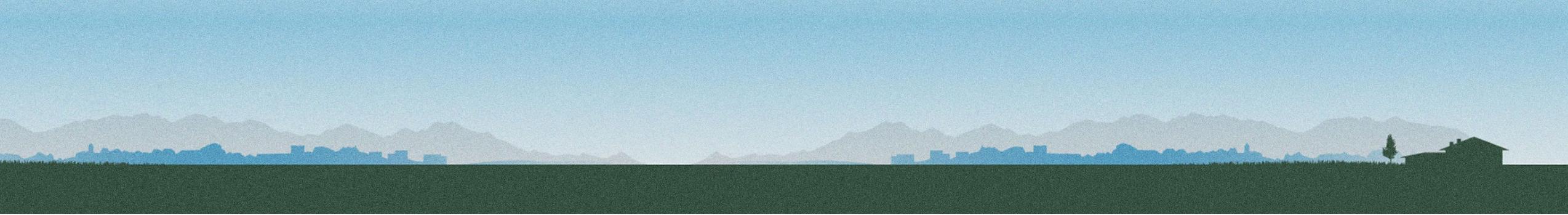
(a) may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information in order to participate in the rotation; and

(b) shall establish an appeal process to hear and decide appeals from decisions suspending or removing a tow truck motor carrier from the rotation.

(2) In conducting an appeal described in subsection (1)(b):

(a) The appeal process may be conducted by a single appeal officer or a panel; and

(b) A person hearing an appeal may not be the person who made the decision to suspend the tow truck motor carrier from the rotation.



UTAH LEAGUE OF CITIES AND TOWNS

Legislative Policy Committee

October 15, 2018



LPC agenda and next steps

- Housing
 - November 1 deadline; survey to come to LPC and housing subgroup
- Retirement (firefighter and/or Tier 2 for public safety)
 - Sign up for working group if interested
- Water
 - October 17 interim; existing subgroup
- Tax structure
 - Sign up for working group if interested
- Towing
 - Sign up for working group if interested
- Medical Marijuana

Commission on Housing Affordability members

- Sen. Anderegg
- Rep. Potter
- Rep. Briscoe
- Jon Pierpont, DWS
- Jonathan Hardy, DWS
- Ben Hart, GOED
- Matt Sibul, UTA
- Grant Whittaker, Utah Housing Corp.
- Chris Gamvroulas, Utah HBA
- Mike Ostermiller, Utah Realtors
- Richard Stevenson, Utah Bankers
- Richard Stevenson, Utah Bankers
- Janice Kimball, public housing authorities
- **Andrew Johnston, ULCT (SLC Council)**
- **Chris Condie, ULCT (Lehi Council)**
- Matt Dahl, Utah RDA
- Jeff Jones, Summit County Econ. Dev.
- Mike Akerlow
- Michele Weaver, RCAC
- Brynn Mortensen, Salt Lake Chamber



ULCT housing subgroup

- Andrew Johnston
- Blair Camp
- Cathie Rigby
- Chris Condie
- Craig Giles
- David Harding
- David Litvack
- Dawn Ramsey
- Debby Lauret
- Deon Hunsaker
- Dianna Anderson
- Don Shelton
- Emily Niehaus
- Gerald Osborn
- Greg Shultz
- Jan Lopez
- Jason McGuire
- Jason Roberts
- Jeff Killian
- John Call
- John Knight
- Joyce Brown
- Ken Leetham
- Kent Barton
- Kim Soper
- Korry Soper
- Kory Holdaway
- Kristina Eck
- Lawrence Boswell
- Lynn Pace
- Mark Johnson
- Mary Jo Hafen
- Mike Duncan
- Mike Mendenhall
- Miriah Elliot
- Nate Rockwood
- Paul Jerome
- Rani Derasary
- Ronald Crittendon
- Silvia Catten
- Stephen Nelson
- Tish Buroker
- Wally Ritchie

Commission on Housing Affordability



- Next meetings: October 22 and November 1
- Goal of drafting a bill and presenting in interim committee on November 14 (last interim day)
- Chairs are synthesizing recommendations from seven subgroups and hope to find consensus

**Our objective with LPC: can we find consensus
on recommendations to date?**

Housing: what you've told us so far

Resolution [2018-004](#)

- Support city-initiated expansion of Accessory Dwelling Units
- Review zoning, regulations, and processes to facilitate housing where infrastructure and transportation supports development
- Support and comply with Moderate Income Housing Plan requirements (HB 259)
- Support inclusionary zoning in appropriate places
- Support state and federal policies that ease labor and materials costs and improve wages
- Oppose legislative efforts to preempt local authority over land use, use a one-size-fits-all approach, or reduce existing local revenues

Building on the Keys to Housing

- Cities hold some – but not all – keys to closing the affordable housing gap.
- Stay tuned for our Map to the Gap – our housing platform for this session.
- Utah Foundation survey – help us help you!

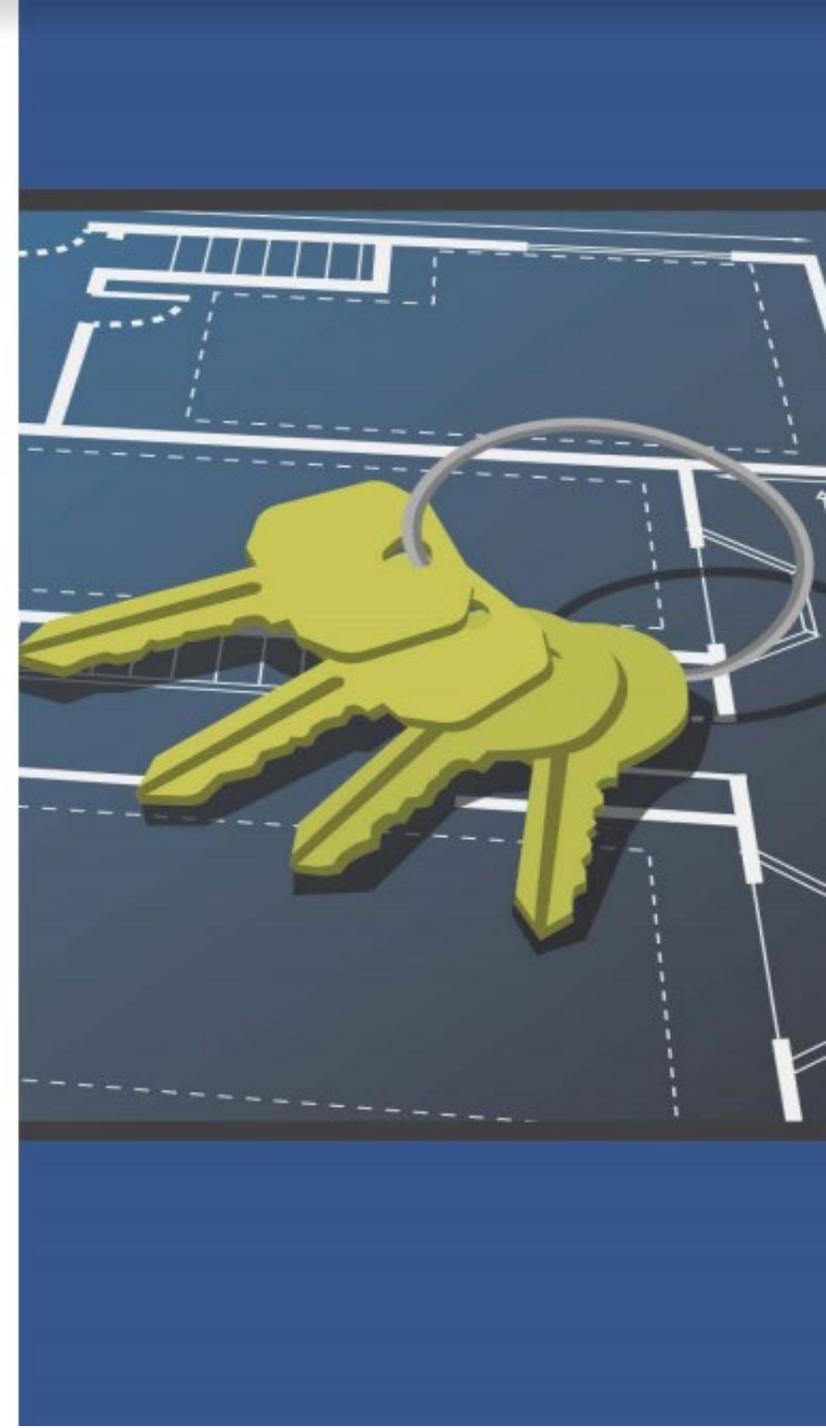
Housing Policy in Utah

What Keys Do You Hold?

*A Resource Guide for
Municipal Officials and
Staff.*

**U
&
CT** UTAH LEAGUE OF
CITIES AND TOWNS

2018



Housing: what you've told us so far



Caucuses of Commonality at Annual Convention

- We do not want political cover from the state on land use decisionmaking.
- Location matters. Density doesn't make sense everywhere – and density for the sake of density is not smart growth.
- We want to see more productive TODs.
- Our rural communities need economic development assistance and technological infrastructure, not necessarily more affordable housing.

Rural advisory group



- Housing is economic development
 - Add housing development as an eligible capital expense for the State's economic development tax and grant programs when directly tied to a business's expansion or relocation.
- Revisit TRT allotment
 - Program funds back to the tourism industry (hotels/restaurants/etc) that are supplying housing for their employees.
 - Allow funds to be used for housing.

TOD working group



- Increase funding, financing, and tax credits to TOD sites that include affordable housing
- Include housing affordability in UDOT's TIF and TTIF prioritization process (SB 136)
- Prioritize selling or donating surplus land around transit stations to mixed-use TOD projects with affordable housing
- Provide more funding for TLC-type programs and others that help align regional priorities
- Reduce cost of transit

Affordable housing production group – FUNDS

- One time housing bond, allocated over 5 years
- Ongoing revenue from state General Fund
- Funds split into 4 categories
 - Permanent supportive housing
 - Rehab/preservation
 - TOD with affordable housing component
 - Other, including local gov't reimbursement of taxes and fees, expertise development for smaller cities and non-profits, rent vouchers
- FY 2019 state surplus
 - Education surplus to reimburse school districts for tax abatement
 - Gap financing for approved LIHTC projects where costs have increased

Affordable housing production – LAND USE



State-incentivized menu of options for cities, including but not limited to:

- Allow ADUs with local development standards
- Streamline permits and approvals for affordable projects
- Transportation-efficient development per SB 136 prioritization process
- Reduced parking
- Reduce fees (impact and development)
- Eliminate exclusionary zoning
- Increase density
- Allow for scattered site and self-help projects
- Require that a government that demolishes affordable housing for development replace it

Land use advisory group

Consensus items

- Impact fees – safe harbors and increased time to spend for certain projects (details TBD)
- Increase ADUs, with local standards
- Inclusionary housing in certain areas
- Transportation-efficient land use planning

Non-consensus items

- Real estate transaction tax/commercial development linkage fees
- Regional planning authorities
- General standards
- Penalties

Seven subgroups
=
one consensus bill?

Commission on Housing Affordability



Questions for LPC to consider today:

- What, if anything, should be on the “menu” for cities to address both affordable housing and housing affordability?
- What, if anything, should the state incentives for cities be?

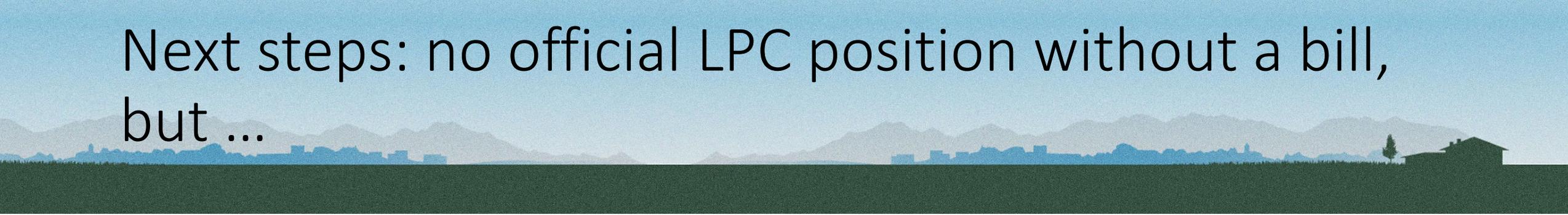
So what is on the menu for cities?

- Increase density – how and where?
- Eliminate exclusionary zoning
- Planning benchmarks
- Fair share requirement (similar to requirements in some states that every city has a % of affordable housing)
- Include or allow housing in all zones (other than industrial zones)
- Allow ADUs, with local development standards
- Allow Single Room Occupancies (SROs) in zones permitted or allowing hotels/motels
- Encourage or require development in expanded transit/bus route zones
- Eliminate or relax certain housing development requirements (parking, amenities, open space, etc.)
- Streamline permit and zoning approvals for affordable housing
- Reduce or eliminate public and private fees for affordable housing
- Acknowledgment that state dollars will be attached to certain types of planning

Where is the menu? (incentives)

- In the Moderate Income Housing Plan and report requirements?
 - ULCT staff working on a HB 259 cheat sheet – out this week
- Attached to affordable housing bond and general fund money?
- Attached to requirements for state economic development incentives?
- Attached to transportation project priorities per SB 136?
- Attached to the not-yet-imposed .20 county option for transit authorized under SB 136?
- Attached to withholding existing funds, such as Class B&C revenue or local 1% sales tax? (NO)

Next steps: no official LPC position without a bill,
but ...



We need your feedback for the Commission by this Thursday –
look for a quick survey in your inbox.



Retirement

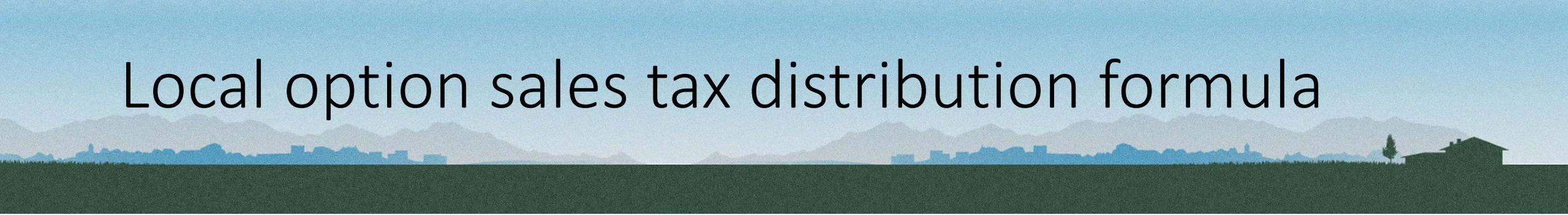
- Firefighter Tier 1 retirement fund shortfall
 - Home insurance tax premium has not been allocated to the FF retirement fund for the past several years.
- Tier 2 retirement for public safety employees
 - Is now the time?
- We need volunteers for a working group to determine the best course.
- [Materials on the LPC page](#) of our website.

Towing



- Towing Advisory Board meeting October 18
- Need feedback on proposed language – [see materials on the LPC page](#) of our website.

Local option sales tax distribution formula



What is the “50/50”?



“50/50” Basics

- 1959 – Basic Local Option Tax Authorized (.5%)
 - Raised to .75% in 1975 – All point of sale
- 1983 – Current Distribution Formula Created
 - Required a new .25% tax rate - “New Money”
 - A similar infusion of new money today would be \$150M
 - Phased in over a number of years
- Operational Basics
 - 50% of each sales tax dollar stays where product was sold (point of sale)
 - 50% divided among all cities based on population



Reason for the Current Distribution Formula

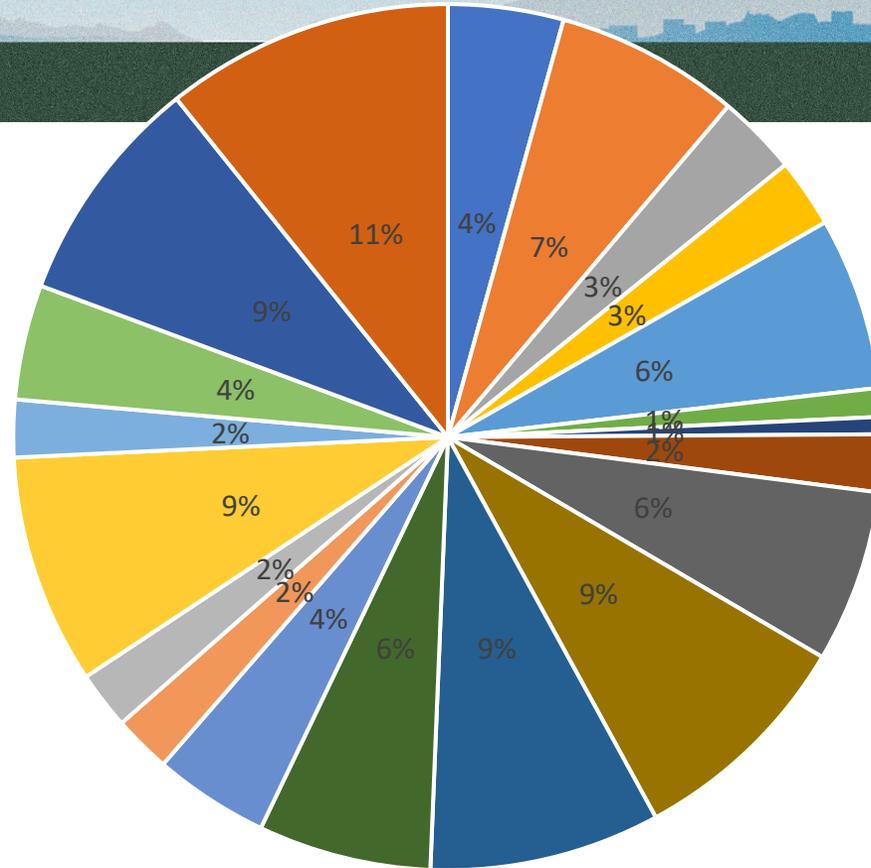


- The sole goal of the 1983 distribution formula was to achieve a rough balance between the interest of retail centers and cities with smaller retail capacity.
- It was and is a significant compromise that all cities bought into that has effectively worked for over 35 years.

Key Points

- It is the cities' money
 - “..it is critical to its constitutionality that the tax be that of the local government and that money belong to the local government” *Utah Supreme Court 1991*
- If changes are made there needs to be “New Money.” If not we are just changing the slices of the pie.
- Cities need to agree among themselves of the need and type of change.

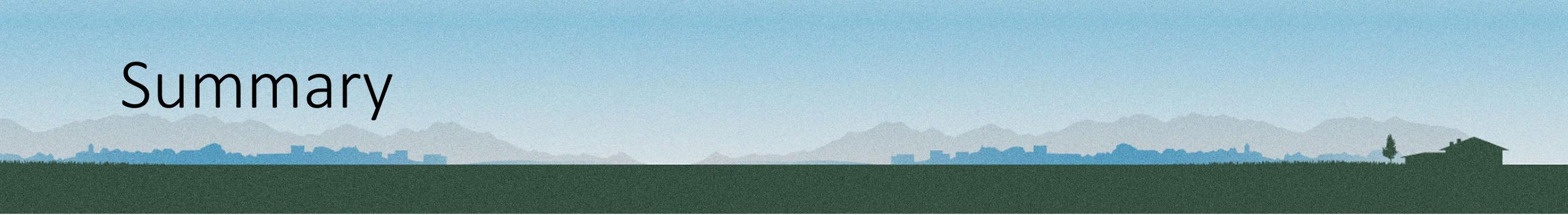
Local Distribution \$600 M



- City 1
- City 2
- City 3
- City 4
- City 5
- City 6
- City 7
- City 8
- City 9
- City 10
- City 11
- City 12
- City 13
- City 14
- City 15
- City 16
- City 17
- City 18
- City 19
- City 20



Summary



- Why the 50/50 distribution formula happened
 - General agreement there was a problem to solve.
 - Recognition that it was a city issue and there needed to be a consensus among cities about to solve it.
 - The Legislature provided the “grease” in the form of new money.
- Why it has worked
 - There has been a continued buy-in by all cities.
 - Recognized the changing nature of growth of cities – population inevitably generated retail – the combination benefited all cities.
 - Need for the cities to hold together.

What is the Criticism?

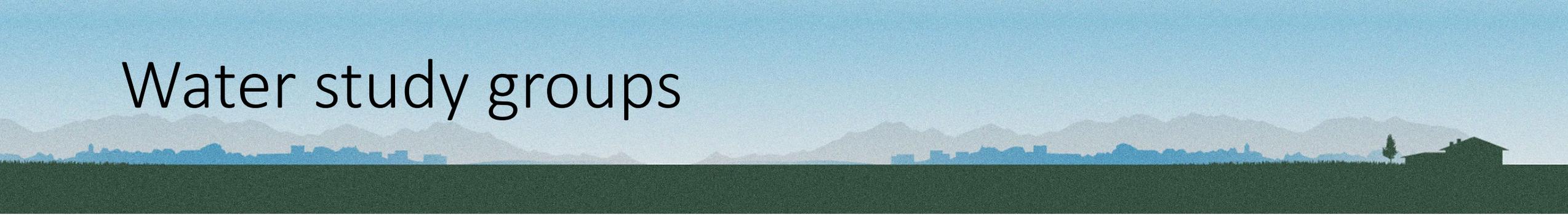
- Cities Chase Sales Tax
 - That is what the creation of the tax was supposed to do.
 - Has it been carried too far?
- Questionable Economic Incentives
 - Stories live forever/Never the full story
- Impact on Land Use
 - Preserving nature of community is not chasing sales tax

We Really Don't Know Where Retail is Headed



- The internet has changed the nature of retail (Annual Convention)
- A result will be a change in the Point of Sale component anyway

Water study groups



Four water study groups were formed by the Department of Natural Resources to examine issues from 2018 bills:

1. Proposed Constitutional Amendment
2. Water Supply and Surplus Water
3. Private Property
4. Extra-territorial Jurisdiction

See [Utah Division of Water Rights page](#) for meeting schedule and materials.



Extraterritorial Jurisdiction



- Notice of adoption of rules regulating pollution
- 1st Class cities: watershed control requires an interlocal agreement if it is outside of the city's home county

Proposed Constitutional Amendment

Article 11, Section 6

League Resolution [2018-002](#)

- Waterworks may be sold
- Municipality may define by ordinance and supply water to a designated water service area
- Contractually commit water currently in excess of needs of DWSA
- Water held and supplied to DWSA at reasonable rates

Statutory companion to Constitutional amendment

Utah Code 10-7-14: rules and regulations for use of water

- Definitions
- Creation of maps and submission to State Engineer
- Rules regarding water service to retail customers outside a city's political boundaries
- Sale of waterworks only to a public entity
- [Draft on the LPC page of our website](#)



Statutory companion to Constitutional amendment

Utah Code 10-8-22: water rates

- Rates must be reasonable
- Must provide same notice to all retail customers within the DWSA
- Principle of equal protection
- Large water suppliers (10,000+ population) must create an advisory board **IF** more than 10% of connections are outside the city
- [Draft on the LPC page of our website](#)



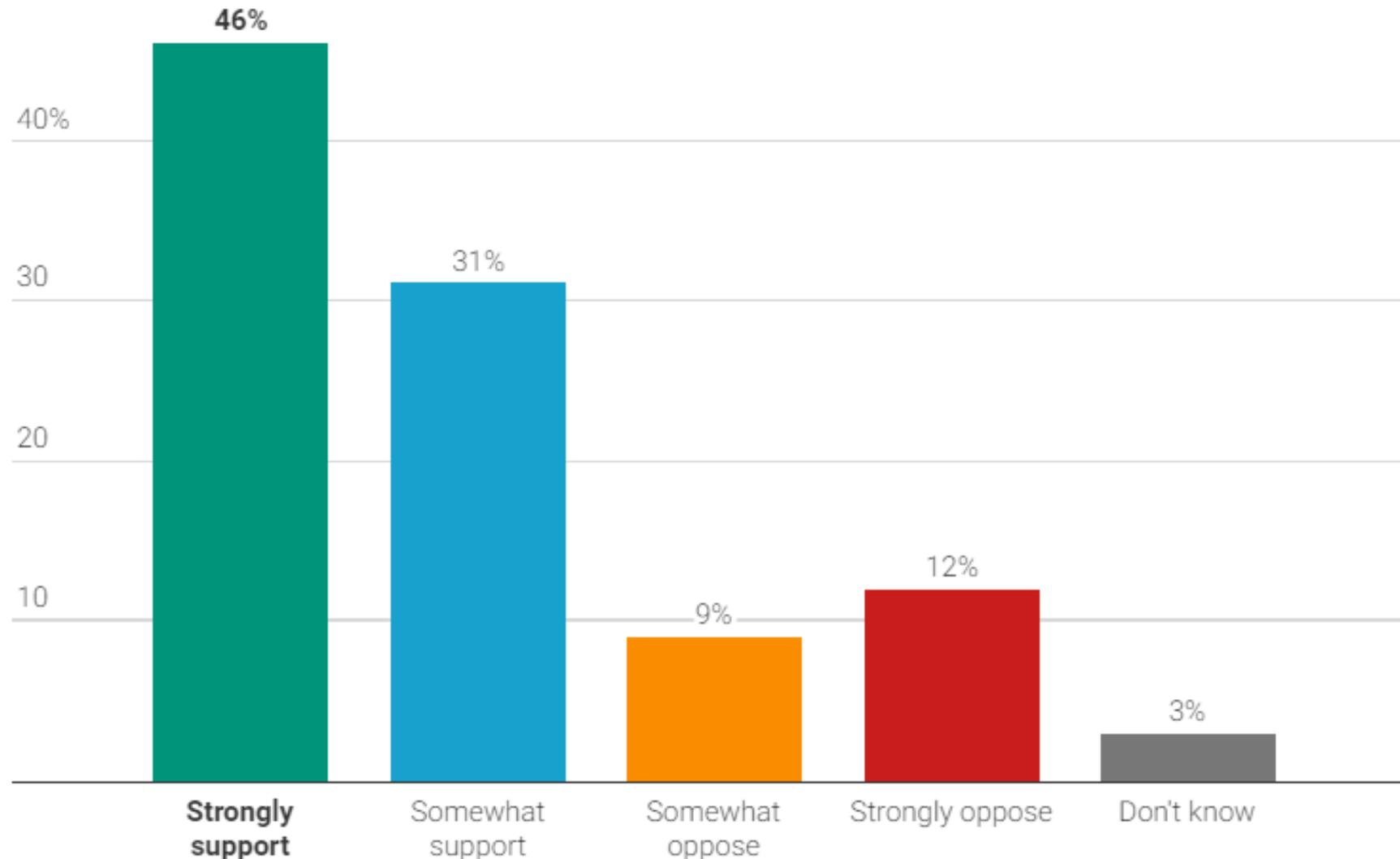
Medical Marijuana initiative

Three main concerns for local government

- General preemption
- Licensing preemption
- Public safety



Do you support or oppose legalizing doctor-prescribed use of non-smoking medical marijuana for certain diseases and pain relief.



Survey by Dan Jones & Associates. February 9-16, 2018. 609 registered Utah voters. Margin of error +/- 4.0%



Preemption of local authority

General preemption:

- 4-41b-104: “This chapter preempts any ordinance or rule enacted by a political subdivision of the state regarding a cannabis production establishment.”
- 26-60b-104: “This chapter preempts any ordinance or rule enacted by a political subdivision of the state regarding a cannabis dispensary or a medical cannabis card.”

Licensing preemption:

- 4-41b-405(2): “A municipality or county may not deny or revoke a permit or license to operate a cannabis production facility on the sole basis that the application or cannabis production establishment violates a law of the United States.”
- 26-60b-506(2): “A municipality or county may not deny or revoke a permit or license to operate a cannabis dispensary on the sole basis that the applicant or cannabis dispensary violates a law of the United States.”

Other interim issues

- **Housing:** ULCT devoting significant resources and also working with DWS, Chamber, other partners.
- **Towing:** industry continues to promote policies that undermine municipal authority over rotation schedule and tow lots.
- **Billboards:** [HB 361](#) -- consensus on a process?
- [HB 336](#) Fine Amendments
- **Food Trucks:** best practices and taxes
- **Local direct democracy:** [HB 225](#)
- **Alcohol:** [HB 442 \(2017 Session\)](#) implementation
 - July 1, 2018: state law requires new retailers to obtain a license from DABC. Old retailers will have to apply by Feb. 2019
 - Local consent forms are required for the DABC license
 - Reduces proximity of a restaurant licensee to a community location
 - ULCT staff is working on best practices for local alcohol licenses