

2015 Utah Legislature

Summary of Bills That Affect Land Use, Land Development, Property Rights, or Eminent Domain

These summaries are provided for informational purposes only, and do not reflect legal conclusions or opinions on any legislation.

Please refer to the bill text, or to the language of the Utah Code. The full text of each bill may be found at www.le.utah.gov, or by clicking on the Bill Title.

All bills are listed under the number assigned during the 2015 General Session.

List of Bills Discussed

In Numerical Order

House Bills

H.B. 25: Water Law – Application Revisions
H.B. 42: Annexation Amendments
H.B. 43S4: Water Rights—Change Application Amendments
H.B. 46S1: Mechanic’s Lien Revisions
H.B. 53: Local Government Residential Reimbursement
H.B. 58: Change Application Modifications
H.B. 70S1: Posting Political Signs on Public Property
H.B. 98S1: Association Amendments
H.B. 99: Association Open Meeting Amendments
H.B. 103: Taxation of Property Amendments
H.B. 117: Public Meeting Notice Requirements
H.B. 127S1: Local Land Use Amendments
H.B. 160: Drive -Through Service Usage Amendments
H.B. 192: Property Rights Ombudsman Amendments
H.B. 276: Agriculture Structure Amendments
H.B. 303S2: Legislative Approval of Land Transfers
H.B. 332: Local Transportation Corridor Preservation
H.B. 351S3: Planning District Amendments

Senate Bills

S.B. 15: Water Law—Forfeiture Exemptions
S.B. 29: School Planning and Zoning Process
S.B. 40: Water Law—Application Withdrawal
S.B. 68: Eminent Domain Amendments
S.B. 80S1: Homeowners' Association Reserve Fund
S.B. 118S2: Homeowner Association Bylaws
S.B. 124S3: Land Use Amendments
S.B. 143: Title and Escrow Modifications
S.B. 199S5: Local Government Revisions

Bill Summaries

The Office of the Property Rights Ombudsman has classified several bills adopted in 2015 based on the impacts on land use, development, or eminent domain.

They are presented here in three categories:

(1) Significant or Direct Impact; (2) Moderate or Indirect Impact; and (3) Low or Co-incidental Impact

Significant or Direct Impact

H.B. 127: Local Land Use Amendments (First Substitute)

Amends:	Enacts:
10-9a-511	10-9a-511.5
15-3-202	17-27a-510.5

Effective Date: May 12, 2015

Local governments may not require physical changes to a legal nonconforming rental dwelling, except in certain circumstances. Specifically, in some circumstances a bedroom window used for emergency egress does not need to comply with the current building code if it complied with the code in place when the structure was built, and if the change would compromise the structural integrity of the building.

H.B. 192: Property Rights Ombudsman Amendments

Amends:

13-43-203

Effective Date: May 12, 2015

Clarifies that the attorneys in the Office of the Property Rights Ombudsman may not represent private clients, and that no attorney-client relationship is formed between a citizen and the OPRO.

H.B. 332: Local Transportation Corridor Preservation

Amends:

72-2-117.5

Effective Date: May 12, 2015

Authority over the Local Transportation Corridor Preservation Fund is transferred to local governments. A local government may not acquire property for a state highway, unless the entity has adopted a corridor acquisition ordinance or policy that is compliant with UDOT requirements.

H.B. 351: Planning District Amendments (Third Substitute)

Amends:

10-9a-304	17-27a-403
17-27a-102	17-27a-502
17-27a-103	17-27a-505.5
17-27a-210	17-27a-602
17-27a-301	17-27a-604
17-27a-302	17-27a-605
17-27a-305	63I-2-210
17-27a-401	63I-2-218

Enacts:

17-27a-901

Effective Date: May 12, 2015

With limited exceptions, planning for mountainous areas is removed from municipal jurisdiction, and placed under County authority. This only applies to Salt Lake County (the only County of the First Class currently)

S.B. 29: School Planning and Zoning Process

Amends:

53A-20-108

Effective Date: May 12, 2015

School districts are required to meet with local governments when planning a new school, and must submit a site plan for review. The local government may request a traffic study under certain circumstances.

S.B. 68: Eminent Domain Amendments

Amends:

72-5-111

Effective Date: May 12, 2015

Clarifies the procedure for disposing of surplus UDOT property acquired through eminent domain.

S.B. 124: Land Use Amendments (Third Substitute)

Amends:

10-9a-103	17-27a-103
10-9a-505	17-27a-505
10-9a-603	17-27a-603
10-9a-604.5	17-27a-604.5
10-9a-606	17-27a-606
10-9a-802	17-27a-802

Effective Date: May 12, 2015

This bill defines “infrastructure improvement” and provides that a local government may not withhold a building permit for failure to complete an improvement, unless the improvement is “essential.” It also adds some guidance on infrastructure completion bonds, and clarifies a process for common areas to be removed from a plat.

**S.B. 199: Local Government Revisions
(Fifth Substitute)**

Effective Date: May 12, 2015

This sweeping bill amends several code sections, and primarily concerns the establishment and on-going operation of townships.

Moderate or Indirect Impact

H.B. 103: Taxation of Property Amendments

Amends: Enacts:
59-4-101 59-2-301.7

Effective Date: May 12, 2015

Valuation of property for tax purposes must consider whether the property has been used to store hazardous or radioactive waste.

H.B. 117: Public Meeting Notice Requirements

Amends:
10-9a-203
54-4-202

Effective Date: May 12, 2015

Eliminates exemption from public notice requirements for specified entities with budgets less than one million dollars.

Low or Co-incident Impact

H.B. 25: Water Law – Application Revisions

Amends:

73-2-27

73-3-3

73-3-8

Effective Date: May 12, 2015

An applicant for a change in the place of diversion, including changes in location, place of use nature of use, period of use, or water storage may request a meeting with the State Engineer's Office to discuss the change. The applicant has the burden of proving that that the application should be approved. The bill provides that notice for change applications may be approved if they do not materially impair another water right.

See *also* H.B. 43, 58; S.B. 15, 40

H.B. 42: Annexation Amendments

Amends:

10-2-402

Effective Date: May 12, 2015

An annexation into a municipality may create a peninsula or an island, as provided in § 10-2-418, or if the city and county have agreed that the peninsula or island may be created.

See *also* S.B. 199

**H.B. 43: Water Rights – Change Application Amendments
(Fourth Substitute)**

Amends:

73-1-4
73-2-27
73-3-3
73-3-3.5

Effective Date: May 12, 2015

This bill enacts changes to the change application procedure, particularly involving a shareholder in a water company. A shareholder may pursue a court action if the water company does not cooperate. Attorney’s fees may be awarded if mediation does not occur because a party refused to participate.

See *also* H.B. 25, 58; S.B. 15, 40

**H.B. 46: Mechanic’s Lien Revisions
(First Substitute)**

Amends:	Enacts:
38-1a-308	38-1a-805

Effective Date: May 12, 2015

Provides for arbitration to nullify (or ratify) preconstruction liens, and establishes an arbitration procedure and standards for review. In some circumstances, court costs and attorney’s fees may be awarded if an arbitration decision is appealed.

H.B. 53: Residential Property Reimbursement

Enacts:

Chapter 11-53 (§§ 11-53-101 to -203)
63I-2-211 (Act is repealed in 2020)

Effective Date: May 12, 2015

Salt Lake County (the only “County of the First Class” currently) and municipalities within the County may establish a fund to reimburse survey, platting, and application expenses for a person that converts a two-family condominium into single family fee simple ownership.

H.B. 58: Change Application Modifications

Amends:

73-3-3

Effective Date: May 12, 2015

Adds definition of “Person entitled to use of water,” which includes holders of perfected rights, shareholders in water companies (who are authorized to file change applications), and holder of approved but unperfected water right applications.

See also H.B. 25, 43; S.B. 15, 40

H.B. 70: Posting Political Signs on Public Property (First Substitute)

Enacts

20A-17-103

Effective Date: May 12, 2015

If a public entity allows political signs to be posted on public property under the agency’s control, it must allow all political signs to be posted.

H.B. 98: Association Amendments (First Substitute)

Amends:

57-8-3
57-8-10.1
57-8-31

57-8a-102
57-8a-208
57-8a-209
57-8a-218

Enacts:

57-8-8.1

Effective Date: May 12, 2015

An association of homeowners must treat all similarly-situated owners equally, including owners of units being rented. Tenants may not be excluded from common areas or services provided by an association. The bill also adopts new language related to violations and fines.

H.B. 99: Association Open Meeting Amendments

Amends:

Enacts:

57-8-3

57-8a-102

57-8-56

57-8a-104

57-8a-224

57-8a-225

Effective Date: May 12, 2015

Meetings of association boards and management committees must be open to all unit owners, and notice must be given to each owner. Owners must be given opportunity to comment. Meetings may be closed in certain circumstances.

H.B. 160: Drive-Through Service Usage Amendments

Enacts:

10-8-44.6

17-50-329.5

Effective Date: May 12, 2015

Local governments may not adopt ordinances requiring establishments with drive-through service to accommodate non-motorized vehicles (or pedestrians); and they may not adopt ordinances requiring that establishments have the same business hours for lobby and drive-through service.

H.B. 276: Agriculture Structure Amendments

Amends:

Enacts:

59-2-507

10-9a-525

59-2-1101

59-2-1102

Effective Date: May 12, 2015

A “high tunnel” is a temporary shelter to store agricultural products (such as feed, etc.). High tunnels are exempt from municipal building codes and do not require building permits from a municipality (The bill does not enact a parallel provision in the County code). High tunnels are also exempt from property tax valuation.

H.B. 303: Legislative Approval of Land Transfers

Amends:

63L-2-201

Effective Date: May 12, 2015

State agencies must obtain legislative approval before transferring ownership of parcels greater than 500 acres to the Federal Government.

S.B. 15: Water Law – Forfeiture Exemptions

Amends:

73-1-4

Effective Date: May 12, 2015

While a water right is subject to an approved change application, it is exempt from forfeiture as long as the applicant is diligently seeking certification.

See *also* H.B. 25, 43, 58; S.B. 40

S.B. 40: Water Law – Application Withdrawal

Amends:

73-3-6

Effective Date: May 12, 2015

An applicant may withdraw an application, by sending written notice to the State Engineer's Office. Applicant is not entitled to a refund of fees paid for the application.

See *also* H.B. 25, 43, 58; S.B. 15

**S.B. 80: Homeowners' Association Reserve Fund
(First Substitute)**

Amends:

57-8-3	57-8a-104
57-8-7.5	57-8a-211
57-8a-102	57-8a-224

Effective Date: May 12, 2015

A managing agent of a homeowner's association must provide buyers with copies of the association's governing documents and its financial statements.

**S.B. 118: Homeowner Association Bylaws
(Second Substitute)**

Amends:

Enacts:

Repeals and Reenacts:

57-8-3	57-8a-104	57-8a-225	57-8-17
57-8-7.5	57-8a-217		
57-8-39	57-8a-224		
57-8a-102			

Effective Date: May 12, 2015

Records of a homeowner's association must be made available to unit owners. Governing documents may not include a provision requiring more than 67% (2/3) vote for amendments.