

Utah League of Cities and Towns
Legislative Policy Committee Minutes – February 18th, 2020, 12:00 p.m.
Zoom Webcast

1. Welcome, introductions, and logistics
 - ULCT Director of Government Relations Victoria Ashby welcomed the committee participants and explained the online webcast format. Monday, being Presidents day,
2. Legislative items:
 - a. UPDATE: Legislation
 - i. HB 226 Storm Water Permitting Amendments
 - ULCT Director of Policy Wayne Bradshaw briefed the committee on HB 226. The bill is in response to the EPA requiring a DEQ permit change. ULCT participated in a 5-month process involving the Utah Department of Environmental Quality, the Utah Homebuilders Association, and some engineers to address the permit issue. HB 226 is an attempt to address residual concerns from some stakeholders. Wayne added that ULCT has been meeting with the bill sponsor and discussions are ongoing.
 - ii. SCR 6 Concurrent Resolution for Study of Local
 - ULCT Senior Advisor Roger Tew introduced SCR 6. Senator Bramble approached ULCT during the summer with concerns about how a shift towards online retail will affect local government budgets. Roger explained that the resolution language that became public was not exactly what the sponsor had intended. The sponsor agreed to work with ULCT and come up with mutually favorable language. The first substitute will essentially request ULCT and UAC to provide the legislature with information regarding the impact of e-commerce and the point of sale associated with the various local option sales and use tax rates and possible changes to the distribution formula. The term “50/50” is not used in the substitute and there’s no required reporting date.
 - iii. HB 271 Firearms Preemption
 - ULCT Executive Director Cameron Diehl explained ULCT’s concerns behind HB 271. State law already prohibits local governments from regulating firearms unless the legislature specifically grants permission. Several such regulations are permitted including unauthorized possession of firearms in police stations and jails, mental health facilities, airports, and weapons discharges within city limits. The primary concern local governments have in HB 271 is the penalties for cities and local elected officials if there s a perceived violation of the preemption. If a city violates HB 271, the city and elected officials could be liable for treble actual damages, attorneys

fees, fines, and removal from office. Public resources cannot be used to defend the local government either. Cameron mentioned that counties and other groups are opposing the bill but being a 2nd amendment issue, tensions are high, and it will be difficult to make changes. He emphasized that ULCT's concern is not about the 2nd amendment, it's about the principle of preemption and penalties for elected officials.

iv. HB 273 Property Rights Ombudsman (PRO) Amendments

- Victoria Ashby updated the LPC on HB 273. Currently parties can request a decision from the Property Rights Ombudsman and if they proceed to litigation, the prevailing party can collect attorneys fees. HB 273 would allow the prevailing party to collect compensatory damages if the judge finds in favor of the PRO decision. The bill's supporters have suggested that some cities have disregarded their own ordinances when voting on land use decisions. ULCT is concerned about the threat of significant damages chilling local government officials, eroding government immunity, and the weaponization of the neutral PRO. Victoria added that the bill was moved from the House Political Subdivisions Committee to the House Business and Labor Committee because the House Business and Labor Committee is a more difficult committee for local governments. Cameron suggested LPC members contact their legislators on the committee.

v. HB 98 Offenses Against the Administration of Government Amendments

- the bill is an extension of 2019 legislation that responded to the UFA audit. The bill scales back some of the criminal penalties for misuse of public property to make them based on value or the cost of repairs to the public property. The bill also creates an exemption for de minimis use. Victoria explained that after extensive feedback from law enforcement agencies, ULCT staff feels comfortable with the new language and recommends a position of support.

vi. Economic development legislation

- SB 95 Economic Development Amendments – ULCT Senior Advisor John Hiskey updated the committee on the first substitute to SB 95. SB 95 reallocates the funding from the discontinued USTAR program towards a rural county (3rd-6th classes) economic development grant program. County economic development advisory boards would be created to request and administer the grants. John added that there had been some concerns expressed about municipal representation on the board. John and Cameron said that Senator Sandall had been receptive to those concerns but didn't want to be too restrictive in code. Cameron encouraged those communities to reach out to Senator Sandall.

- HB 299 Opportunity Zone Enhancements – John explained that HB 299 is an attempt to enhance the efficacy of opportunity zones by combining state tax credits with federal opportunity zone credits to encourage affordable housing and economic development projects near transit.
 - RDA/CRA optional taxing entity – John explained that there is not yet a bill public and relayed concerns about the limited time remaining for the bill to be processed for ULCT could take a position.
- vii. Law enforcement legislation
 - UCA/911 – John told the committee that Senator Harper had gathered all the relevant stakeholders to figure out the consolidation of PSAPs. The bill concept reduces audit requirements in place of benchmarks. John added that UCOPA was still making a final decision on the legislation.
 - DNA & Body Cameras – John and Cameron told the committee that the negotiations between public safety organizations and the bill sponsors was still on going.
- viii. Other bills of note
 - SB 129 Metro Township Amendments – Cameron explained that the bill extended the municipal telecommunications tax to metro townships and expressed concerns about extending city taxes to non-city entities. The ULCT Board of Directors is seeking volunteers from cities within Salt Lake County to work with metro township representatives over the interim on a 2021 bill.
 - SB 51 Secondary Water Requirements – Victoria suggested ULCT change their position from oppose to support with the language in the substitute. All of the retroactive metering requirements are removed and the bill exempts communities in rural counties and communities that can not get a warranty for meters because of their water quality.
 - HB 190 Local Government Cooperation Contracts – HB 190 requires local governments to enter into service contracts when they're drawn into the service area of a mandatory service provider. Victoria said that Representative Johnson has been working with a number of different entities involved to find a solution. The most recent suggestion is to create a mediation panel to deal with contract disputes. The stakeholder group has not yet reached consensus.

b. UPDATE: Litigation

i. Inland Port

- HB 347 is Representative Gibson's latest version of the Inland Port legislation. Cameron explained that the bill is the result of negotiations between SLC, WVC, Magna, the Inland Port Authority, and other stakeholders. The bill focuses on four things: land use authority,

property tax increment, board membership, and mitigation/sustainability efforts. Cameron highlighted several provisions of the bill and described it as a step forward from the status quo. Cameron recognized the efforts by the local government stakeholders to improve the bill.

- SB 112 is another bill on the subject from Senator Escamilla. The bill creates a mitigation fund for communities adjacent to the port. It also creates minimum environmental standards and gives the SLC School District a seat on the board.

ii. Transportation Utility Fees

- The Pleasant Grove TUF decision agreed that cities have broad fee authority but also ruled that the TUF was in practice a tax and required specific authorization from the legislature. Cameron specified that the judge ruled that the road system is a general purpose rather than a specific benefit. The court called on the legislature to clarify the fee. Cam cautioned that there may be a bill to outright prohibit the use of the fees.

3. Other legislative issues and questions from membership (*ULCT 1st Vice Pres. Mike Caldwell*)

- SCR 6 Concurrent Resolution for Study of Local Option Sales Tax – Cameron and Roger explained that while the original text of the resolution was alarming, the intent is reasonable. The resolution asks local governments to analyze emerging trends in sales tax revenues due to new technology. The resolution does not have a reporting date and does not require recommendations, it simply encourages ULCT and UAC to study the issue.
- HB 298 Victim Guidelines for Prosecutors – this bill would require that prosecutors and police departments sign off on every UVISA program that is requested of them and creates a presumption that they were helpful. Even for reports of crimes, cities would need to fill these out. Concerns were raised that removing a local law enforcement agency's discretion could interfere with federal law.
- HB 300 Justice Court Amendments – the language is unclear but appears to allow for district attorneys to file Class B and C misdemeanors to be prosecuted in municipal justice courts. Cameron said ULCT would continue to engage on the bill.

4. Ratify staff recommendations

- Mayor Caldwell authorized Cameron to request a motion to ratify staff recommendations. The LPC participants online ratified staff recommendations.

5. Adjourn

- The LPC webcast adjourned.

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