

2018 Water Related Legislative Issues
Utah Association of Special Districts Annual Meeting
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1. **Review of Bill Requests for 2018 General Session** as shown on the Legislative Web Page which at this date (October 31, 2017) are all “in process” with no drafts available to the public:

Water & Irrigation

Legislative Water Development Commission Amendments – Senator Margaret Dayton.

In the 2017 General Session, Senator Dayton sponsored and passed SB 11 which converted the Utah Water Development Commission which had executive members to a legislative commission with no executive members. Possible tune up legislation developed after the first year of operation for the Legislative Water Development Commission by the Senate Chairman, Senator Dayton.

Secondary Water Metering Requirements – Senator Jacob Anderegg.

The Senator has opened a bill file, but has not given specific directions yet to the staff for drafting. Weber Basin is the largest secondary water system in the State and it has implemented a metering system for a small portion of their secondary customers. In the past, the meters have been too expensive to install, but technology advancements are making it possible to now start the process of installing secondary meters. Most water suppliers currently have not installed secondary meters. If the legislation required the state to pay for the meters, the fiscal impact of the bill would make the bill very difficult to pass. To receive critical water use data for Public Water Systems, secondary water will need to be identified and managed. Consensus has not yet developed on required legislation.

Stream Bed Access Revisions – Representative S. Sandall.

The last bill the Legislature passed on this issue has been in litigation since passage. The trial court stated that the Legislature had exceeded their constitutional authority and the matter is currently being appealed. It will be interesting to see what Rep. Sandall has in mind.

Water Conservation Revisions – Representative Gage Froerer.

This is most likely a second attempt to pass HB 304 from the 2017 General Session. HB 304 passed the House with only 3 negative votes. It was not able to pass the Senate in the last four days of the session. The House version has developed support from the water community. It clarifies that water conservancy districts will continue to develop water conservation plans related to uses by residential, commercial and industrial users.

2. **The Rest of the Story or The Big ones are not ready yet.**

3. **The Easy Ones/ Consensus Bills from the Executive Water Task Force.**

The Executive Water Task Force in the past has developed a series of bills that are consensus “clean up bills.” There have been discussions that some of these consensus bills will deal with modifications to the Change Application process; the Ute Indian Colorado River Allocation, Livestock on Public Lands, a modification to the “deed rider” requirements when property with accompanying water rights is transferred and some type of water use reporting requirement or refinement.

4. The Big Issues.

A. Resolution of the Canal/Ditch Modification bill (2017 SB 271 sponsored by Sen. David Hinkins).

SB 271 was introduced by Senator Hinkins in the 2017 General Session. President Niederhauser encouraged the introduction of the bill to assist developer’s deal with canal or ditch changes needed for development. The Bill was introduced late in the 2017 General Session. The water community was able to refer the concept to interim study. An informal working group representing irrigation and developing parties have worked during the interim and developed a draft, dated July 17, 2017 that seemed to be acceptable to the parties. About a month ago, the working group learned that the draft was not acceptable to at least some of the developers. The working group has been working hard to revise their draft back into a consensus bill that they thought they had in the late summer. Pressure is building on this issue because Legislative Leadership wants and will most likely get a bill passed in the 2018 General Session. Hopefully the working group will define a process that works to resolve potential conflicts as farming lands are urbanized.

B. Resolution of State Drinking Water Standards/Impact Fee Implications – sponsored by Representative Mike Shultz.

Representative Shultz opened a bill request in the 2017 General Session that was entitled **Drinking Water Minimum Source Sizing Requirements**. An informal working group was formed to meet with Rep. Shultz to resolve the concerns that he had expressed about his bill. The working group included representatives from the Home Builders Association, the Prep 60 Districts and the Division of Drinking Water. With the commitment of the working group, Rep. Shultz abandoned his 2017 request. The parties have continued to meet since the 2017 General Session. Significant data has been developed and submitted for review by the Prep 60 Districts and their municipal customers. The issue posed by Rep. Shultz was simple, the Legislative Audit of the Division of Drinking Water, stated that the State’s Drinking Water Source requirements for indoor use were overstated, and that water use standards for outdoor use were understated; therefore, a bill was requested to reduce the State indoor standard by legislation. The hope for the Developers was that this would reduce the impacts fees required by developers to mitigate the impact of their development on the permitting local governments. They were quite willing to wait until the data could be developed to determine how much higher the standard should be for the outdoor use, which would tend to raise the impact fee requirements for the developers.

The Federal Drinking Water Legislation requires states to develop minimum standards for Public Water Systems to provide public health protection for citizens that a community would have adequate water. The requirement to have a minimum state standard for public water systems is a Federal requirement for the State Division of Drinking Water to retain primacy for drinking water jurisdiction. It was clear that the State Division of Drinking water did not have adequate data to collaborate the state standards with actual data from Public Water Systems. The cost of this study at one time was pegged at \$13 million. Other funding requests varied with the lowest being projected at \$5 million. The legislature turned down these requests by the DDW for data study. The Prep 60 Districts internally produced with the help of their municipal customers significant data that concluded that the indoor actual use was lower than the state standard and that the outdoor use while varied was higher than the standard set by the DDW for outdoor use. The Prep 60 District's data also suggested that the combined indoor and outdoor use would likely be higher than combined standards currently provided by the DDW.

Jim Behunin, the lead Legislative Auditor, has been participating in these working groups, indicated that this was one of the most complex regulatory issues he had faced as a Legislative Auditor. A consensus approach is being developed by the working group that just might create a state minimum standard for public water systems, which can be modified by each public water system based on the data from their own personal system water data usage. The Legislative Report is due December 12, 2017. One concept likely to be recommended is that public water systems report the actual usage of secondary water, which up to now has been beyond the jurisdictional authorization for the DDW. The Prep 60 Districts and the public water suppliers have data that tracks their actual use and these numbers will be more likely used in the future for planning, rather than relying on the DDW's minimum standards. Attempts to adjust by legislation, rather than actual data will be resisted by Public Water Suppliers.

C. Regional Watershed Councils.

The Governor's Water Advisory Group has completed a multiple year review of the State's Water Policy. They found a couple of items that require a lot of additional thought. Regional Watershed Councils was one of these recommendations. It seems like a good idea, but what does this really look like. The Executive Task Force and the Legislative Water Development Commission have created a joint working group to try to develop this concept. A quick survey shows that there are currently 70 regional watershed working groups. The existing watershed councils have been formed around a concept that various parties are willing to work together to achieve common goals. Most are voluntary, some have now been formalized by interlocal agreements. Enough research has been conducted to conclude that there is not enough time available to develop binding jurisdictions based on watershed application. Quite often, the battles over a watershed will be over water allocation between the upper and the lower areas of the watershed. The concepts have great potential. It would be easier to deal with a disaster than maintain a protocol to prevent disaster. This is a little like placing the

ambulance at the bottom of the cliff rather than building a protective fence at the top of the cliff.

The Department of Natural Resources has made a great voluntary effort to deal with range restoration, especially when confronted with losses to habitat from wildfires. This organization has provided an implementation platform to build or reseed projects developed by these existing watershed parities. For every dollar appropriated by the Legislature to WRI, then have been able to find 5 additional dollars to improve the habitat. Their efforts to reseed the damaged caused by this year's Brian Head Fire is a classic example of a voluntary effort to resolve a watershed issue. The Association of Special Districts should go on record as supporting the Department of Natural Resource's supplementary appropriation for their efforts.

D. Water Banking.

The Governor's Advisory Group also recommended the concepts of water banking be explored. Water Banking along the Colorado River has allowed the Lower States to store water for later use when needed. The Legislative Water Development Commission is starting to explore a water bank that allows a farmer to bank excess water and create a "Pool" of banked water that can be leased out for temporary uses. The farmer who banked and helped create the pool for additional water leases could be compensated for the value of his water via a temporary lease to another water user. This is an exciting concept, but it needs a lot of additional work.

E. Property Taxing Authority.

In the 2017 session, Senator Lincoln Fillmore introduced SB 94, challenging the property taxing authority of all special districts. It changed the last legislative challenge sponsored by Senator Bramble. After a lot of hard work, the Association of Special Districts and the Prep 60 Districts worked out a reasonable compromise which will go into effect in January of 2018. On Halloween, I checked for possible legislative changes related to taxing authority of special districts and found no such legislation being requested by Rep. Eliason, Senator Fillmore, Senator Howard Stephenson and Senator Bramble. We will keep watch for any type of legislation dealing with this issue.

F. Protecting the WIRA Account.

In the 2015 General Session, the Legislature created the Water Infrastructure Restricted Account and funded it with a onetime appropriation of \$5 million. In the 2016 General Session, the Legislature provided additional ongoing funding in the appropriation of 1/16% of the Sales Tax to provide funding for the future development of the Lake Powell and Bear River Projects and to provide funding for repair and replacement of unfunded Federal projects. In 2017, the Prep 60 Districts had to defeat several proposals to spend the WIRA funds for non-water

development projects. In the 2018 General Session, protecting the WIRA from raids for non-water development will continue to be one of the top priorities of the Prep 60 Districts.