

UTAH ASSOCIATION OF SPECIAL DISTRICTS

2020 BILL REVIEW

By

Heather N. Anderson
Government Affairs

Mark H. Anderson
General Counsel

Rachel S. Anderson
Associate Counsel

By the end of the 2020 session of the Utah State Legislature, the Association was following and addressing more than 200 Bills. During the session, many additional Bills were reviewed and investigated to make sure they had no impact on local districts or special service districts that, once the lack of impact was confirmed, were dropped from the weekly legislative summary.

“H.B.” stands for “House Bill” and “S.B.” stands for “Senate Bill.” Most of the Bills were “tracked,” but a number of them were actively supported or opposed by the Association. During the course of the forty-five-day legislative session, weekly meetings were held at the Capitol, at which all interested local district and special service district representatives were welcome. Bills were reviewed during those meetings and the position of the Association on each Bill was determined. By the end of the legislative session, the Association supported 57 Bills, 53 (93%) of which passed. The Association opposed 22 Bills, 17 of which were eventually amended or substituted, resulting in the Association changing its position on those Bills to Support or Track. Of the remaining 5 Bills that the Association opposed, all 5 failed to pass.

This Review does not include every passed Bill that may impact your district, but does include a few notable Bills that failed to pass, and no one district will be impacted by all of the Bills that are reviewed. The reviews, in most instances, merely touch upon some of the salient features of the Bill. Most of the reviewed Bills are not limited to local districts and special service districts. They may, for example, also apply to counties, municipalities, etc. However, this review is limited to the impact on local and special service districts. If, from the brief summary presented below, it appears that a Bill may be applicable to your district, you are urged to review the entire Bill, which may be viewed online at www.le.utah.gov (go to “Bills,” then click on “Passed Bills,” then scroll down and click on the desired Bill number) and, if appropriate, to consult your attorney. You may also contact LeGrand Bitter, Heather Anderson, Mark Anderson, or Rachel Anderson with further questions.

LeGrand Bitter – legrand@uasd.org – office: (801) 614-0405, cell: (801) 725-1312

Heather Anderson – writeheather@gmail.com – (310) 404-9966

Mark Anderson – mhanderson@fabianvancott.com – (801) 323-2234

Rachel Anderson – randerson@fabianvancott.com – (801) 323-2206

BONDING

S.B. 15 – Government Operations Sunset Reauthorizations

Sponsor: Senator Daniel W. Thatcher

UASD Position: Support

S.B. 15 repeals the sunset date of December 31, 2020 for provisions that allow a local district to secure certain bonds with mineral lease payments under Title 11, Chapter 59, Point of the Mountain State Land Authority Act. The new sunset date is January 1, 2029.

S.B. 115 – Bonding Amendments

Sponsor: Senator Kirk A. Cullimore

UASD Position:

S.B. 115 provides that a first lien is created on ad valorem taxes for the payment of principal and interest on the local political subdivision's general obligation bonds. The Bill details the procedures required in the event of a municipal bankruptcy. This provision is meant to provide clarity for bond issuers. S.B. 115 also allows the state to rearrange funds used for a \$90 Million bond that the state received for a UDOT project.

COMMUNICATION

S.B. 130 – 911 Communications Amendments

Sponsor: Senator Wayne A. Harper

UASD Position: Support

S.B. 130 sets standards that by June 2024 there will be fewer than 2% transfer rates for all 911 calls. It requires that 90% of all 911 calls be answered within 15 seconds and 95% of 911 calls be answered within 20 seconds. S.B. 130 addresses statewide policy regarding procedures for handling of 911 calls and 911 call transfer protocols. It requires implementation statewide of CAD-to-CAD. The Bill requires the Department of Public Safety to enter into an agreement with a single public safety answering point serving within a county. S.B. 130 clarified that the Utah Communications Authority may not charge a state government entity or political subdivision of the state a radio user fee. The Bill also specifies duties and meeting requirements for the Utah Communications Authority divisions and advisory committees, including to prepare and conduct annual training exercises for public safety agencies designed to enhance the interoperability, effectiveness, and efficiency of the agencies.

H.J.R. 14 – Joint Resolution Regarding Study and Recommendations for Tele-government

Sponsor: Representative Phil Lyman

UASD Position: Track

This joint resolution requests that legislative staff, working with the Utah Education and Telehealth Network, study best practices and policies related to expanding the state's current

tele-government services. A report will be made to the Government Operations Interim Committee and the Public Utilities, Energy, and Technology Interim Committee no later than November 30, 2020.

CRIMINAL

H.B. 11 – Blood Alcohol Limit Amendments

Sponsor: Representative James A. Dunnigan

UASD Position: Track

When the Utah State Legislature lowered the blood alcohol concentration threshold from 0.08 grams or greater to 0.05 grams or greater for impaired driving in 2018, one area of the Utah Code was overlooked. H.B. 11 lowers the blood alcohol concentration threshold from 0.08 grams to 0.05 grams or greater for workers' compensation claims. If it is presumed that the major contributing cause of an employee's injury is due to the employee's intoxication from alcohol, the employee's workers' compensation claim will not be awarded. If the employee has been terminated due to the use of alcohol at the time of injury on the job, the employee's disability claim may be impacted.

H.B. 98 – Offenses Against the Administration of Government Amendments

Sponsor: Representative Craig Hall

UASD Position: Support

H.B. 98 is a follow-up Bill from legislation passed in 2019 dealing with the excessive use of government resources for personal use. The legislation passed in 2019 made any improper use of government property for personal use a felony. H.B. 98 changes the statute to create a tiered penalty approach ranging from a simple misdemeanor to a felony depending on the value of the property. The penalties range from a class B misdemeanor if the cost to repair or replace the public property is less than \$500, up to a second-degree felony if the cost to repair or replace the public property is \$5,000 or more. The Bill also clarifies that there is an exemption for the incidental or minimal use of public property for a personal matter by individuals.

S.B. 173 – Disorderly Conduct Amendments

Sponsor: Senator Don L. Ipson

UASD Position: Tracking

S.B. 173 increases the penalties for disorderly conduct or disruption of an official meeting.

S.B. 214 – Gambling Machines and Sweepstakes Amendments

Sponsor: Senator Karen Mayne

UASD Position: Support

A number of fringe gambling machines have been placed in convenience stores and laundromats across the state. S.B. 214 closes the loophole that has allowed this type of illegal gambling to take place. The Bill gives authority to a municipality and county to seize gambling debts, proceeds, or fringe gaming devices. It also allows any individual who has lost money as a result of a fringe gaming device to take action against any person who receives revenue from the device to recover damages, costs, and attorney fees.

DEBT COLLECTION

S.B. 234 – Local Government Debt Collection Amendments

Sponsor: Senator Ralph Okerlund

UASD Position: Support

Local governments provide services to the public, such as EMS, where there is a charge for the service. When the payment isn't made, the governmental entity may contract with a third-party debt collector. S.B. 234 provides a way for governmental entities to partner with the Division of Finance to include the amount owed to come from income tax refunds.

DEPARTMENT OF HEALTH

H.B. 106 – Rare Disease Advisory Council

Sponsor: Representative Lee B. Perry

UASD Position: Tracking

H.B. 106 creates the Rare Disease Advisory Council under the Department of Health—Disease Control and Prevention. A grant may be awarded by the Department to operate a council that will provide recommendations to the Legislature and state agencies regarding best practices for improving access to treatment for any disease that affects fewer than 200,000 individuals in the United States.

ENERGY/ENVIRONMENT

S.B. 88 – Environmental Quality Revisions

Sponsor: Senator Ralph Okerlund

UASD Position: Support

S.B. 88 is a clean-up Bill aimed to create efficiency and standardization across the division within the Department of Environmental Quality. In 2012, an effort was made to shift the permitting and adjudicative authority from the various boards to the division directors. This occurred for every board within the DEQ with the exception of the Division of Drinking Water. S.B. 88 gives the Director of Drinking Water the authority to move forward with actions regarding permitting and adjudicative issues. The Bill allows the Executive Director of the DEQ to appoint a designee for enforceable written assurances in an effort to issue those assurances to developers in a timely manner. Due to federal EPA requirements, the Bill clarifies that a fine

of exactly \$1,000 per day will be issued to public water systems that provide water to more than 10,000 individuals for violating the Safe Drinking Water Act. The Bill also modifies rules related to a penalty imposed on an agriculture discharge and allows for discharge permits to be renewed.

FUNDING/TAXATION

H.B. 50 – Tax Exemption for Construction or Unoccupied Property

Sponsor: Representative Douglas V. Sagers

UASD Position: Track

H.B. 50 modifies the definition of “residential property” for purposes of the Property Tax Act to include primary residence property that is under construction or unoccupied. The owner of residential property owner may receive a property tax exemption if the property is under construction or unoccupied. In order to receive the property tax exemption, the property owner must file a declaration with the county assessor stating that the property will be used for residential purposes as the primary residence upon completion or occupancy.

H.B. 382 – Property Tax Records Amendments

Sponsor: Joel Ferry

UASD Position: Track

H.B. 382 modifies provisions of the Government Records Access and Management Act (“GRAMA”) making an individual’s email address, phone number, and payment method information, that is maintained by a county for purposes of administering property taxes, private and protected. It also makes any record concerning an individual’s eligibility for property tax relief private and protected under GRAMA.

S.C.R. 6 – Concurrent Resolution for Study of Local Option Sales Tax

Sponsor: Senator Curtis S. Bramble

UASD Position: Tracking

As business models change and more shopping is done online, some of the ways municipalities impose sales tax may need to change as well. This resolution encourages the Utah Association of Counties, the Utah League of Cities and Towns and local transit districts to provide information on the impacts of e-commerce to the Legislature. These associations and transit districts are encouraged to determine the impact of e-commerce and the point of sale associated with the various local option sales and use tax rates and, where applicable, possible changes to the distribution formulas.

S.B. 114 – Sales and Use Tax Exemption Amendments

Sponsor: Senator Kirk A. Cullimore

UASD Position: Tracking

S.B. 114 clarifies that certain purchases are exempt from sales and use tax. These exemptions take place beginning July 1, 2020 and include: lessons, including a lesson that involves the use of equipment or a facility to provide the lesson, a marketplace facilitator for a restaurant such as Door Dash or Uber Eats and puts the requirement to collect the sales tax on the restaurant, and the operator/lessee of a data center facility.

S.B. 134 – Property Tax Exemption for Wildfire Prevention (Failed to Pass)

Sponsor: Senator Daniel Hemmert

UASD Position: Oppose

S.B. 134 would have enacted a property tax exemption, up to 80%, for properties on which the owner performed some form of wildfire prevention. The sponsor intended the Bill to incentivize property owners to clear their property of fire hazards. The problem is that the fire, police, and EMS services provided to the areas that have high wildfire risk factors are paid for with property taxes. Had this Bill passed, these first responders would have either been underfunded or other property owners would have had to pay higher property taxes to subsidize the property owners who took advantage of the property tax exemption. The Bill would also decrease the property taxes received by any district or municipality that receives property taxes from any property utilizing this exemption.

The sponsor did make a number of changes in an effort to make the Bill more palatable. He completely removed counties of the fourth, fifth and six classes. The property tax exemption program would have started with counties of the first class on year one and would have added the second- and third-class counties in years two and three respectively. The Bill also placed the Division of Forestry, Fire, and State Lands over the designation of which properties qualified for the tax exemption. The Director of the Division was willing to work with local fire officials when determining qualified properties.

While this Bill did not pass in the House, Senator Hemmert is very determined to create a way to incentivize wildfire prevention. We may very likely see it come back in future legislative sessions. If this would have negatively impacted your district, please work with UASD and the Division of Forestry, Fire, and State Lands to come up with a different solution.

MOSQUITO ABATEMENT

S.B. 64 – Special District Communication Amendments

Sponsor: Senator Lincoln Fillmore

UASD Position: Support

The Association worked closely with Senator Fillmore and various mosquito abatement districts to make this Bill more amenable. The original language of the Bill had excessive and unattainable public notice requirements. The version of S.B. 64 that passed simply requires a mosquito abatement district, beginning January 1, 2021, to provide public notice as soon as practicable before performing ULV treatment in a county of the first or second class. All other

counties are exempt from this requirement, but they may provide the notice if they so choose. The notice must be placed on either the mosquito abatement's website or a social media platform. The notice simply needs to state the date, time, and location for the ULV treatment. A disclaimer may be made that the date, time, and location is subject to factors such as temperature and wind speed.

S.B. 179 – Public Infrastructure District Amendments

Sponsor: Senator Daniel McCay

UASD Position: Tracking

S.B. 179 is a clean-up Bill for 2019's S.B. 228, which authorized the creation of public infrastructure districts ("PIDs"). UASD worked closely with the sponsor and other stakeholders during 2019 and 2020 with the understanding that, during the 2021 Utah Legislative Session, PIDs will be moved to a part of the Utah Code that doesn't directly impact local districts and special service districts. S.B. 179 clarifies that 100% of the registered voters and 100% of the surface property owners within the applicable area are required to approve the creation of a PID and any amendment to a PID property tax levy rate limitation requires the consent of 100% of the registered voters and 100% of the surface property owners within the PID boundaries. The Bill also allows a PID to annex property into or withdraw property from the PID without the consent of the creating county or municipality if that is authorized in the PIDs governing document.

S.J.R. 10 – Proposal to Amend Utah Constitution--Property Tax Exemption for Wildfire Prevention (Failed to Pass)

Sponsor: Senator Daniel Hemmert

UASD Position: Oppose

S.J.R. 10 failed to pass. It was the companion legislation for S.B. 234. For S.B. 234 to be legal, the State Constitution would have had to be changed through a vote of the people. S.B. 234 did not pass and become law. Therefore, S.J.R. 10 was rendered unnecessary.

GOVERNMENT ENTITIES

H.B. 31 – Local Government and Limited Purpose Entity Registry Amendments

Sponsor: Representative Stephen G. Handy

UASD Position: Support

H.B. 31 clarifies that the municipal recorder and county clerk are in charge of maintaining the registrations required for the local government entity registry. The Bill makes clarifications for charter schools and qualifying non-profit organizations. The Bill also now requires email addresses, and phone numbers of the members of the entity's governing board, the date of the most recent appointment or election of each governing board member and the date of the anticipated end of each entity governing board member's term. If a district

dissolves, a record of dissolution must be provided to the Lieutenant Governor's Office and no further registration renewal will be required.

As a reminder, all districts must renew their registrations with the Lieutenant Governor's Office annually on or before July 1st.

S.B. 171 – Nonprofit Entities Amendments

Sponsor: Senator Daniel McCay

UASD Position: Tracking

S.B. 171 makes clear that 501(c) nonprofits set up by governmental entities for the purpose of supporting governmental entities are subject to financial transparency and government audits. The statute prohibits a public entity from disclosing information that could identify a donor of a 501(c) nonprofit. This does not apply to a disclosure of personal information required under Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or any other legal requirement relating to reporting campaign contributions, campaign expenditures, lobbying disclosures, lobbying expenditures, or information given as part of public comment or in a public meeting. A person whose personal information is provided or disclosed in violation of this statute may bring a civil action for appropriate injunctive relief, damages, or both. A court may award court costs and attorney fees to a person that brings an action if the person prevails. A person that knowingly violates these provisions is guilty of a class C misdemeanor, punishable by up to 90 days in prison or a fine of up to \$1,000, or both.

This Bill makes clear that a public agency may not impose a requirement on the registration or maintenance of a nonprofit entity that is more restrictive or expansive than the requirements authorized by Utah Code or federal law.

LAND USE

H.B. 273 – Property Rights Ombudsman Amendments (Failed to pass)

Sponsor: Representative Val L. Peterson

UASD Position: Tracking

Advisory opinions issued by the Office of the Property Rights Ombudsman are not binding on the parties to the land use dispute nor are advisory opinions generally admissible in subsequent litigation. However, if the same issue that is the subject of an advisory opinion subsequently is litigated on the same facts and circumstances and the court resolution of the issue is consistent with the advisory opinion, H.B. 273 allows the subsequently prevailing party in the court action to recover a civil penalty of \$250 per day if the court finds that the opposing party knowingly and intentionally violated the law governing the cause of action. The civil penalty begins to accrue on the later of 30 days after the advisory opinion was delivered or the day the court action was filed. The civil penalty stops accruing on the day the court enters a final judgement. The court may not impose a civil penalty against or in favor of a prevailing

party that is not the land use applicant or a government entity. Utah Code Ann. Section 13-43-206(12) and (13).

H.B. 388 – Land Use Development and Management Revisions

Sponsor: Representative Logan Wilde

UASD Position: Tracking

H.B. 388 was a hard-fought interim consensus Bill worked on by the Utah League of Cities and Towns, the Utah Association of Counties, the Utah Association of Special Districts, The Property Rights Coalition, and the Land Use Task Force. Each municipality and county is subject to the Land Use Development and Management Act (“LUDMA”). H.B. 388 modifies LUDMA, including language that will impact the activities of electricity, gas and telephone corporations respecting municipal utility easements. It also includes language that will only allow adjoining property owners and parties that will suffer a distinct injury due to a land use decision to appeal the decision as “adversely affected parties.” H.B. 388 clarifies that the incorporation of a municipality, or a petition that proposes the incorporation of a municipality, does not affect a land use application that previously was approved by a county. The Bill includes a new definition for “subdivision amendments” and allows a municipality or a county to establish a process that may eliminate the need for a plat for a subdivision of 10 or fewer lots, or a plat amendment process that requires a plat that depicts only the portion of the subdivision that is proposed to be amended. This does not change other local ordinance requirements such as the zoning, size, and configuration of lots. The Bill clarifies the steps a property owner must take when filing a written request for a subdivision amendment. The same changes apply uniformly to municipalities and counties. The Bill also repeals a number of provisions in Title 17, Chapter 27a of the Utah Code dealing with mountainous planning districts, with a repeal date of June 1, 2021.

LEGISLATING AND RULEMAKING

S.B. 156 – General Session Date Amendments

Sponsor: Senator Ann Millner

UASD Position: Support

S.B. 156 establishes that the first Tuesday after the third Monday in January is the official beginning of the Legislature’s annual general session. The Bill will take effect if the State’s Constitution is changed by a vote of the people in the next general election in accordance with S.J.R. 3.

S.J.R. 3 – Proposal to Amend Utah Constitution—Annual General Sessions of the Legislature

Sponsor: Senator Ann Millner

UASD Position: Support

This Joint Resolution proposes to amend the Utah Constitution to move the beginning of the General Legislative Session from the fourth Monday in January to the date in January

designated by statute. The question will be asked on the 2020 general election ballot. If this passes by a vote of the people in November, the 2021 General Legislative Session will begin on the first Tuesday after the third Monday in January due to the passage of S.B. 156. This will allow the Legislature to change the start date to any day in January without going to another vote of the people by simply passing a Bill to change the statute.

S.J.R. 10 – Proposal to Amend Utah Constitution--Property Tax Exemption for Wildfire Prevention (Failed)

Sponsor: Senator Daniel Hemmert

UASD Position: Tracking

S.J.R. 10 was the companion legislation for S.B. 234. For S.B. 234 to be legal, the State Constitution would have had to be changed through a vote of the people. S.B. 234 did not pass and become law. Therefore, SJR 10 was rendered unnecessary.

PROCUREMENT/PURCHASING

S.B. 90 – Procurement Code Amendments

Sponsor: Senator David G. Buxton

UASD Position: Support

The intent of S.B. 90 is to condense, consolidate, “clean up”, and repeal portions of the Utah Procurement Code, which governs purchases made by local districts and special service districts. Among the changes to the Procurement Code, the phrase “procurement officer” has been replaced by “procurement official.” The Procurement Official of an independent procurement unit, such as a local district or a special service district, is the governing body or the governing body’s designee. The rulemaking authority for a local district (other than a public transit district) or a special service district continues to be the Utah State Procurement Policy Board “except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules: (i) with respect to a subject addressed by board rules; or (ii) that are in addition to board rules.” Utah Code Ann. § 63G-6a-103(77)(j). The chief executive of a public transit district is the rulemaking authority for the public transit district.”

If a district has not adopted its own purchasing rules, state rules will apply and, even if the district has adopted its own purchasing rules, “gaps” in those rules may be filled by portions of the State’s purchasing rules. The purchasing rules adopted by the Procurement Policy Board are found in Rule R33 of the Utah Administrative Code.

A district’s Procurement Official may “at any time during the term of a contract awarded by the independent procurement unit, correct or amend a contract to bring it into compliance or cancel the contract: (i) if the procurement official determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and (ii) after consulting with . . . the procurement unit’s legal counsel.” Utah Code Ann. § 63G-6a-106(3)(h). Legal

consequences and lawsuits could arise, which is why consultation with the district's attorney is required.

While the concept isn't new, Section 107.6 of the Procurement Code verifies that the Procurement Code does not apply to the acquisition of an item from another public entity, the acquisition, or disposal of real property (unless otherwise provided by another statute), grants, or supplies purchased for resale to the public. If a vendor is allowed to correct an immaterial error in an otherwise responsive solicitation response, the vendor must submit the proposed correction in writing. A committee that will evaluate statements of qualifications must include at least three individuals unless the Procurement Official makes a written determination "that the evaluation criteria (i) consist of only objective criteria; and (ii) do not include any subjective criterion that requires analysis, assessment, or deliberation." Utah Code Ann. § 63G-6a-410(9)(b)."

Previously, a vendor on an approved vendor list was required periodically to submit the vendor's qualifications for evaluation by the procurement unit before the vendor could be renewed as an approved vendor. Now, a vendor is not required to submit qualifications but, rather, the procurement unit is required to verify that vendors on the approved vendor list continue to meet the minimum mandatory requirements, evaluation criteria and applicable score thresholds. With that increased flexibility, the procurement unit may require a vendor to submit appropriate documentation or may make the determination based upon other information, such as the continuing level of performance by the vendor. Previously, an issuing procurement unit was required to publish an approved vendor list. Now, rather than publishing the list, the procurement unit is required to make the approved vendor list available to the public. Previously, the Procurement Code listed specific criteria that could be included in an invitation for bids or a request for proposals. Optional criteria are no longer listed in the Procurement Code. Utah Code Ann. § 63G-6a-606(3) requires a procurement unit to "(i) award a contract as soon as practicable to the responsible bidder who submits the lowest responsive bid; and (ii) publish the name and bid amount of the bidder to whom the contract is awarded" unless the invitation for bids is canceled without awarding a contract. This requirement may make the request for proposals process preferable to an invitation for bids if cost is not the primary factor. If cost is the primary factor, but bids are still the preferred approach, criteria other than cost may be utilized to prequalify bidders before cost proposals are submitted.

Utah Code Ann. § 63G-6a-704.4, which is new, allows a procurement unit to issue an addendum to a request for proposals after the deadline for submitting proposals has passed, at the discretion of the Procurement Official, to offerors that have submitted timely proposals, provided that "the addendum does not change the request for proposals in a way that, in the opinion of the procurement official, would likely have affected the number of proposals submitted in response to the request for proposals had the addendum been included in the original request for proposals." Utah Code Ann. § 63G-6a-704.6 authorizes discussions with an offeror who submitted a proposal "to obtain a more complete understanding of whether the offeror is responsible or the offeror's proposal is responsive."

Previously, an evaluation committee was prohibited from changing its final recommended scores after the scores had been submitted to the procurement unit. By striking the word “not,” that prohibition has been removed. Utah Code Ann. § 707(8). When it completes its work, an evaluation committee is required to “prepare and submit to the procurement unit a written statement that: (i) recommends a proposal for an award of a contract, if the evaluation committee decides to recommend a proposal; (ii) contains the score awarded to the recommended proposal based on the criteria stated in the request for proposals; and (iii) explains how the recommended proposal provides the best value to the procurement unit.” Utah Code Ann. § 63G-6a-707(10)(a).

A procurement unit is prohibited from paying for a procurement item before it receives the item unless the procurement official determines that is necessary or beneficial for the procurement unit to make an earlier payment. That determination must be in writing unless “(i) the rulemaking authority has adopted a rule describing one or more circumstances under which a written determination is not necessary; and (ii) the procurement official’s determination is under one of those circumstances.” Utah Code Ann. § 63G-6a-1208(2)(b). It is not uncommon for vendors to require advance payment of at least a portion of a cost of a procurement item. If such purchases are routinely or regularly made by a district, it may be in that district’s interest to adopt a rule to alleviate the procurement official from being required to make a written determination for each such payment.

For a number of years, procurement units have, by law, been required to procure design professional services, which include architects, surveyors, engineers, and commercial interior designers, based solely upon qualifications, with the amount to be paid to be negotiated after the vendors have been ranked based upon their respective qualifications. If an agreement on cost or price cannot be reached with the top ranked vendor, negotiations would then commence with the next highest ranked vendor, and that process would continue until a deal is struck or the procurement unit abandons the effort. S.B. 90 opens that approach to other professional services, including accountants and attorneys. Utah Code Ann. § 63G-6a-1502(3). Now, non-design professional services may be procured either by using a standard request for proposals procedure or by using the procedure that, until now, has been reserved for the procurement of design professional services under Part 15 of the Procurement Code. S.B. 90 ends with an extensive list of repealed Procurement Code provisions, including a repeal of all reverse auction statutory provisions.

PUBLIC SAFETY

H.B. 151 – Traffic Safety Amendments

Sponsor: Representative Lee B. Perry

UASD Position: Track

H.B. 151 removes the requirement to carry a motor vehicle registration in one’s vehicle. Commercial vehicle registration and trailer registration cards are still required to be carried inside the commercial vehicle. The Bill increases the amount of property damage for an

individual to be required to report an accident to the Department of Public Safety from \$1,500 to \$2,500. H.B. 151 clarifies left lane restrictions for vehicles weighing more than 18,000 lbs. The Bill also clarifies provisions that vehicles need slow down and change lanes, when possible, for any vehicle with flashing lights. This includes tow trucks, maintenance vehicles, and first responder vehicles when the vehicle's lights are flashing. Lane filtering changes were made to allow law enforcement to have consistency in other parts of the State Statute when enforcing improper lane changes, regardless of signage being present.

H.B. 188 – Emergency Management Act Amendments

Sponsor: Representative Suzanne Harrison

UASD Position: Support

The Division of Emergency Management will conduct outreach annually to agencies and officials who have access to the Integrated Public Alert and Warning System ("IPAWS") and coordinate with counties to ensure every county has the ability to send IPAWS messages, including Wireless Emergency Alerts and Emergency Alert System messages. Every three years, organizations that have the ability to send messages, including emergency service agencies, public safety answering points, and emergency managers shall send verification of Federal Emergency Management Agency training to the Division of Emergency Management. The Bill also requires that each county have an emergency response successor plan, with the order of succession, that clarifies which individuals are authorized to send emergency alerts. A copy of the plan must be submitted to the Division annually by July 1st.

S.B. 29 – Drug Disposal Program

Sponsor: Senator Daniel W. Thatcher

UASD Position: Tracking

S.B. 29 allows for a program to be implanted in the State of Utah that allows for the safe disposal of lawfully possessed control substances. The program will allow the Attorney General's Office to purchase and distribute home disposal receptacles and state repository receptacles in an effort to dispose of drugs in a manner that is safe to citizens and the environment. The Attorney General may work with law enforcement agencies, pharmacies, hospitals, and other entities including water and sewer districts to implement this program. Unless otherwise agreed by the Attorney General, an entity that permits the placement of a repository on property owned or controlled by the entity will dispose of a controlled substance placed in the repository after the controlled substance is rendered environmentally friendly.

S.B. 209 – Fire and Rescue Training Amendments

Sponsor: Senator Wayne A. Harper

UASD Position: Support

The Utah Fire and Rescue Academy has provided training for decades. S.B. 209 clarifies that Utah Valley University is the operator of this program that offers over 600 classes to more than 2000 firefighters annually. The Bill moves the appropriation of \$4.2 million from the

General Fund to come out of the Education Fund. This program trains and certifies fire fighters free of charge. Seventy-five percent of the firefighters in the state are volunteers.

S.B. 210 – Body Camera Amendments

Sponsor: Senator Daniel McCay

UASD Position: Support

S.B. 210 allows an officer to deactivate a body camera during a conversation with a sexual assault victim and when working with a domestic assault victim if the officer believes that deactivating the camera will encourage complete and accurate information sharing by the victim, or is necessary to protect the identity or safety of the victim. The officer must reactivate the body camera as soon as reasonable after the interview and evidence-based lethality assessment are complete. Under this Bill, if the officer fails to reactivate the body camera, a written report explanation is required.

If an officer fails to have their body camera activated when it is required by law to be activated, a judge presiding over a jury trial may provide an adverse inference instruction if the defendant establishes by a preponderance of the evidence that the officer intentionally or with reckless disregard of the requirements of the law failed to comply with the body camera laws. The officer's failure to comply with the body camera requirements must also be reasonably likely to affect the outcome of the defendant's trial. Other considerations the court must consider when providing an adverse inference instruction to a jury are outlined in the Bill. If a court includes an adverse inference instruction, the prosecutor must send written notice of the instruction to the law enforcement agency of the officer at the time of the offense, including the written order or a description of the order allowing for the instruction, language of the instruction, and the outcome of the trial.

RETIREMENT

H.B. 22 – Utah Retirement Systems Amendments

Sponsor: Representative Craig Hall

UASD Position: Support

Effective July 1, 2020, H.B. 22 implements administrative and technical changes to the Utah Retirement System (“URS”). If a participating employer hires a retiree, they are not required to pay into a retirement plan. If the employer chooses to contribute, it must be to a defined contribution plan or a deferred compensation plan administered by the Utah State Retirement Board (“Board”). The Utah State Retirement Office (“Office”) may, upon the request of a public safety or firefighter retiree, deduct insurance premiums from the retiree's allowance or defined contribution plan administered by the Board. If a covered employee is hired within one year of retirement, the retirement allowance will be cancelled. With the passage of H.B. 22, if the Office cancels the retiree's retirement allowance due to re-employment within the one-year period, the retiree may be eligible to earn additional service credit in the re-employed position and also receive an allowance. If the re-employed retiree is

exempt from cancellation of the allowance, including due to completing one-year of separation from employment with a participating employer, the retiree may choose to cancel his or her retirement allowance and, instead, earn additional service credit in the re-employed position and receive an allowance in accordance with Title 49 of the Utah Code or continue to receive the retirement allowance, forfeit earning additional service credit, and forfeit any retirement-related contribution from the participating employer that re-employed the retiree.

Except for the death benefit described in the New Public Safety and Firefighter Tier II Contributory Retirement Act's Tier II Hybrid Retirement System (Utah Code § 49-23-301) or Tier II Defined Contribution Plan (Utah Code § 49-23-401), survivors of an active member of the Tier II Defined Contribution Plan who dies in the line of duty are not eligible for death benefits under Utah Code §§ 49-23-502 or 49-23-503.

H.B. 225 – Phased Retirement Amendments

Sponsor: Representative Val K. Potter

UASD Position: Support

H.B. 225 is meant to help alleviate the shortage of public safety and firefighter service employees throughout the state by, effective January 1, 2021, allowing a public safety or firefighter service employee who is at least fifty years of age to become a $\frac{3}{4}$ time employee of the same agency. A three-quarter time employee will receive 25% of the retiree's monthly allowance while receiving the pay and non-retirement related benefits of a $\frac{3}{4}$ time public safety or firefighter employee. The covered employer will continue to pay into the employee's Utah Retirement System fund while the employee works $\frac{3}{4}$ time.

S.B. 56 – Public Safety and Firefighter Tier II Retirement Enhancements

Sponsor: Senator Wayne A. Harper

UASD Position: Support

S.B. 56 is a follow-up to S.B. 129 that passed during the 2019 legislative session. S.B. 56 provides for a portion of certain insurance related tax revenues to be deposited in the newly created New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account to cover contributions that state agencies make on behalf of their benefitted employees as an employer pickup. It also provides that, if a participating employer elects to pay all or part of the required members' contribution on behalf of employees who are covered under the Tier II Hybrid Retirement System, the participating employer will be required to make an additional non-elective contribution to an employee who is a member of the Public Safety and Firefighter Tier II Defined Contribution Plan.

The Bill also amends the line-of-duty death benefits payable to the surviving spouse of an active member of the New Public Safety and Firefighter Tier II Contributory Retirement System if the member has accrued less than twenty years of public safety service or firefighter service credit at the time of death. Under current law, the surviving spouse would receive a lump sum payment equal to six months of the active member's final average salary and an

allowance equal to 30% of the member's final average monthly salary. The lump sum will remain the same, but S.B. 56 provides for the allowance to be the greater of 30% of the member's final average monthly salary or 2% of the member's final average monthly salary multiplied by the years of service credit accrued by the deceased member. The effective date of S.B. 56 is July 1, 2020.

S.B. 187 – Cobra Amendments

Sponsor: Senator Todd Weiler

UASD Position: Track

S.B. 187 requires an employer that provides group health insurance coverage to include information regarding mini-COBRA coverage in the notice of cancellation of health insurance coverage. The Bill creates penalties of \$25 a day for each day after the date of failure for an employer who fails to provide information regarding mini-COBRA coverage. The penalty may not exceed \$500.

S.B. 217 – State Retirement Amendments

Sponsor: Senator Daniel Hemmert

UASD Position: Support

S.B. 217 makes changes to the Utah Retirement System (URS) for compensated part-time appointed or elected board members of public agencies. This Bill allows a person to retire under the URS and maintain their seat on a district board. These board members will be subject to a \$5,000 statutory compensation limit per year, per diem is not included in the compensation. It imposes a minimum age for retirees of at least 50 years old for public safety and firefighter retirement system retirees or 55 years of age for all other retiring employees—this age qualifier is necessary to comply with federal requirements. Passing this Bill has been a multiyear process. S.B. 217 takes effect on July 1, 2020.

RECORDS

H.B. 265 – Government Records Transparency Act (Failed to pass)

Sponsor: Representative Travis M. Seegmiller

UASD Position: Oppose

H.B. 265 would have required all government agencies to make an annual report to the state auditor regarding the agency's collection, use, and disclosure of personal identifying information and any misuse or improper disclosure of such information. This Bill would have been very difficult and burdensome for Districts to comply with. The Association opposed the Bill and it failed to pass.

S.B. 47 – Public Document Signature Classification

Sponsor: Senator Jani Iwamoto

UASD Position: Tracking

S.B. 47 makes clear that signatures on a voter registration record, a political petition, a request to withdraw a signature from a political petition, and other documents relating to elections are protected records under the Government Records Management Act (“GRAMA”). A signature from any of the above stated documents may be viewed upon request and approval of the county clerk, but no signature may be copied or photographed. With the exception of registered voters who have been classified as private under Title 20A, Chapter 2, a county clerk must provide a list containing the names and voter identification number of each individual who signs any of the above-mentioned documents.

TRANSPORATION

S.B. 150 – Transportation Governance and Funding Amendments

Sponsor: Senator Wayne A. Harper

UASD Position: Support

S.B. 150 requires municipalities and counties to electronically notify the Utah Transit Authority (“UTA”) of each land use application received by the municipality or county that may impact the development of a major transit investment corridor if UTA requests, in writing, the delivery of such notices. The Bill clarifies transportation reinvestment zones and removes the cap on the number of transit-oriented developments allowed along utility corridors. UTA may not participate in a transit-oriented development if the relevant municipality or county has not developed and adopted a station area plan or has not included moderate income housing as part of its general plan. For a municipality or county to receive transportation governance funds, there must be a “station plan area” in a plan adopted by the relevant municipality or county that establishes and preserves a vision for areas within one-half mile of a UTA fixed guideway station. The Bill includes a number of requirements applicable to the Utah Department of Transportation regarding electric and hybrid vehicle registration fees. The Bill reallocates Class B and C Roads funds to Salt Lake County over the next two years, addressing an issue that resulted from double counting the population of the metro townships within Salt Lake County after the metro townships were created. The Bill also includes a number of clean-up items related to powers and responsibilities of UTAs Board of Trustees and local advisory councils.

WATER AND WATER RIGHTS

H.B. 39 – Agricultural Water Optimization Task Force Amendments

Sponsor: Representative Casey Snider

UASD Position: Support

H.B. 39 expands the Agricultural Water Optimization Task Force to include three additional voting members to the task force. These new members must be individuals whose primary source of income comes from the production of agricultural commodities. It clarifies that six voting members present constitutes a quorum and action may be taken by a majority of

voting members when a quorum is present. The Bill also requires the Task Force, as part of its annual progress report, to recommend legislation, if any, that addresses the issues listed under its duties.

H.B. 40 – Water Loss Accounting

Sponsor: Representative Melissa G. Ballard

UASD Position: Support

With the enactment of H.B. 40, the Commissioner of Agriculture and Food and the Executive Director of the Department of Natural Resources must jointly form a working group from experts within the water community, for the purpose of investigating, studying, and developing recommendations on how to implement standardized water loss accounting practices with reporting results and potentially incorporating the data into a water conservation plan. The working group must include members of the water community with expertise in the areas of water utility service, water loss accounting and water loss control practices, or water infrastructure planning, or other qualifying experience. The working group is expected to come up with a number of recommendations including, but not limited to, a recommendation of appropriate roles for the state wholesale and retail public water suppliers to encourage water delivery efficiency and water conservation from water loss accounting at each level, as well as a recommendation of appropriate levels of funding for state wholesale and retail conservation measures and improved water delivery efficiency resulting from water loss accounting practices.

The working group must report its findings and recommendations to the Utah Water Task Force and the Legislative Water Development Commission by October 1, 2020. The Executive Director and Commissioner shall report the Utah Water Task Force's findings and recommendations to the Natural Resources, Agriculture, and Environment Interim Committee at either the October or November 2020 interim committee meeting.

H.B. 41 – State Water Policy Amendments

Sponsor: Representative Kevin J. Stratton

UASD Position: Support

H.B. 41 outlines the water policies of the State of Utah. The policies address many aspects of water conservation, efficiency, and optimal use of water infrastructure, including the need for water resource development and new water infrastructure. This includes the Bear River and Lake Powell Pipeline projects, the timely replacement of aging or inefficient water infrastructure, the optimal use of agricultural water, and regulations and practices that encourage effective treatment of wastewater to maximize its availability for beneficial use. The Natural Resources, Agriculture, and Environment Interim Committee will review the state water policy annually and recommend priority balancing and any other changes to the Legislature.

As a statement of policy, this Bill does not actually mandate anything. Rather, State agencies are simply encouraged to conduct their activities consistent with the stated policies.

H.B. 94 – Water Application Amendment**Sponsor: Representative Timothy D. Hawkes****UASD Position: Support**

H.B. 94 applies to a section of the Water and Irrigation Code which allows for applications to appropriate or permanently change a small amount of water. Previously, Utah Code Section 73-3-5.6 provided procedures for an applicant to follow when such an application has lapsed, in order to request a reinstatement of the application. H.B. 94 simply adds one sentence to this statute to say that in cases where a general adjudication is pending, if an applicant meets the stated requirements, the state engineer may issue the requested reinstatement certificate (to either appropriate or for a change) before evaluating the claim in the general adjudication.

H.B. 96 – Water Forfeiture Amendments**Sponsor: Representative Joel Ferry****UASD Position: Support**

H.B. 96 addresses issues related to the forfeiture of water, specifically as it relates to the forfeiture exemptions. The Bill clarifies that water is exempt from water forfeiture under a lease arrangement only if the lease is in writing and is terminable. The Bill also addresses the forfeiture exemption for public water suppliers. Currently, public water suppliers may be exempt from forfeiture if they are holding water that is needed in the next 40 years. This Bill sets guidelines and lets the State Engineer establish rules about the standards that will apply when a public water supplier prepares its 40-year plan. In 2008, there was a modification to the forfeiture statute that combined groundwater recharge exemptions with an exemption for situations where a storage restriction is imposed on a surface water reservoir. This was a drafting error, and H.B. 96 separates these exemptions from one another.

H.B. 105 – Water Facilities Amendments**Sponsor: Representative Logan Wilde****UASD Position: Support**

H.B. 105 prohibits a person from maliciously causing damage to, or modification of, a water facility (dam, pipeline, culvert, fire hydrant, flume, conduit, ditch, head gate, canal, reservoir, storage tank, spring box, well, meter, weir, valve, casing, cap, or other facility used for the diversion, transportation, distribution, measurement, collection, or storage of water, stormwater, wastewater, or sewage) that results in actual blockage or diversion of water, stormwater, wastewater, or sewage. The Bill outlines the penalties for interfering with a water facility. An exception is granted if the individual receives written consent to obstruct or make changes related to water facility and right of way from the owner of the water facility.

H.B. 130 – Water Use Amendments**Sponsor: Representative Timothy D. Hawkes**

UASD Position: Support

H.B. 130 goes hand in hand with the water banking legislation found in S.B. 26. Allowing for a split season change for a water right user is considered an essential strategy to help create a water supply for water banking, which was recommended in the 2017 Governor's Water Strategy Report. This Bill allows for such split season uses of water. The State Engineer is the gatekeeper under the change application laws. H.B. 130 enables agriculture to use their water supply while also having a voluntary temporary market-based transaction to allow other users to have temporary use of the water right for beneficial use. A protest may be filed if there is a question that a proposed split season change application will cause interference with another water right. The burden is placed on the change applicant to provide evidence necessary to meet the standard of proof before the State Engineer will grant the change application for split season changes to any water right. This transfer would only be temporary and will not allow for growth of the water right. A split season change application is subject to the current change application process including notices, hearings, and judicial review requirements. The State Engineer has the ability to impose conditions upon the approval of a change application to force mitigating steps.

H.B. 166 – Watershed Councils**Sponsor: Representative Timothy D. Hawkes****UASD Position: Support**

H.B. 166 enacts the Utah Watershed Council Act. It grants rulemaking authority to the Division of Water Resources and provides for the establishment of the Utah Watersheds Council as well as local watershed councils, for the purpose of discussing water policy and resource issues at watershed and state levels that are not vested with regulatory, infrastructure financing, or enforcement powers or responsibilities. The Utah Watersheds Council is to utilize local expertise and resources found in universities and other research institutions or in regional, state, and federal agencies. The creation of local watershed councils will be based on hydrologic basin maps and outlines the conditions applicable to all watershed councils. One of the members of the Utah Watersheds Council must be a representative designated by the Utah Association of Special Districts.

H.B. 168 – Public Water Supplier Relocation Amendments**Sponsor: Representative Timothy D. Hawkes****UASD Position: Support**

H.B. 168 requires the Utah Department of Transportation ("UDOT") to pay 100% of the cost of relocation of all infrastructure owned by any public water supplier with more than 100 connections, when relocation is necessary to accommodate construction of a state highway project. Prior to this legislation, only public water suppliers owned by a political subdivision of the state were reimbursed for the cost associated with UDOT projects.

H.B. 237 – Change to Effective Date of Water-Related Amendments

Sponsor: Representative Kevin J. Stratton
UASD Position: Support

H.B. 237 is a companion Bill to H.J.R. 3, which places a proposed Constitution Amendment on the November 2020 ballot that would allow cities that provide water outside of its jurisdiction to have equal protection for the costumers in case of water shortage. This Bill changes the implantation date to January 1, 2021 if the ballot initiative passes.

H.B. 266 – Water Conservancy District Amendments
Sponsor: Representative Stephen G. Handy
UASD Position: Support

H.B. 266 amends provisions of the Election Code to provide for filling a vacancy on the board of a water conservancy district located in more than one county. Details include requirements for providing notice, nominating candidates, and appointing an individual to fill the vacancy.

H.B. 331 – Water Infrastructure Safety and Maintenance (Failed to pass)
Sponsor: Representative Kim F. Coleman
UASD Position: Oppose

After much work done to amend water conservancy districts out of the Bill, H.B. 331 failed to pass in the Senate. The concept of imposing excessive and redundant reporting requirements on large water providers may come up in future legislative sessions.

H.C.R. 22 – Concurrent Resolution Concerning the Protection, Development, and Beneficial Use of Utah's Colorado River Compact Allocation
Sponsor: Bradley G. Last
UASD Position: Support

This Concurrent Resolution emphasizes Utah's need for its portion of water rights allocated by the Colorado River Compact, acknowledges the efforts made related to the Drought Contingency Plans and Colorado River Interim Guidelines, encourages the state to quickly and efficiently develop and use Utah's portion of the Colorado River, and encourages the state to coordinate and cooperate with federal agencies and the other Colorado River basin states to implement the Drought Control Plans and to engage in the re-consultation on the Colorado River Interim Guidelines.

H.C.R. 24 – Concurrent Resolution on Quagga Mussels
Sponsor: Logan Wilde
UASD Position: Support

This Resolution recognizes the severe economic and ecological threat quagga mussels pose to water conveyance and delivery structures, water-based recreation, and natural resources. It states that Lake Powell is currently the only body of water in Utah infested with

quagga mussels and clearly states the necessity of preventing the spread of the invasive species from boats utilizing Lake Powell to other lakes in Utah. The Resolution states that the National Park Service, as the primary federal land manager for the Lake, should take the lead in containment efforts to prevent the spread of this dangerous and costly invasive species.

H.J.R. 3 – Proposal to Amend Utah Constitution—Water Resources of Municipalities

Sponsor: Representative Kevin J. Stratton

UASD Position: Support

H.J.R. 3 proposes to amend the Utah Constitution to eliminate references to municipal waterworks, and specify the circumstances under which a municipality may supply water outside its boundary or commit to supply water outside its water service area. The question will be placed on the 2020 ballot. If the citizens of Utah approve the Constitutional Amendment, it will create greater water supply security for residents living outside of the municipality's boundaries, but within its service area.

S.B. 26 – Water Banking Amendments

Sponsor: Senator Jani Iwamoto

UASD Position: Support

Prior to the passage of S.B. 26, the primary means to provide water for growth was through a basic sale of water rights from one user to another. This has caused agricultural water rights to be sold indefinitely for culinary use. This practice of "buy and dry" transfers has decreased the availability of water for future agriculture needs. In an effort to lessen the impacts to agriculture, S.B. 26 authorizes the Board of Water Resources, the State Engineer, and the Division of Water Resources to implement the voluntary and temporary use of water rights through water banking.

The Bill outlines how statutory water banks and contract water banks are established and amended. It also clarifies the procedures to follow in the event a default of a water bank and revocation of a water bank occurs, condemnation of banked water rights, delivery request for loaned water rights in water banks, the enforcement powers of the State Engineer, and reporting procedures imposed on the Board of Water Resources and the Department of Natural Resources. The Bill allows the Division of Water Resources to charge a fee for water banking applications in an effort to offset costs. Water rights deposited in a water bank are not subject to abandonment or forfeiture while approved for use in a water bank. The repeal date for the water banking provisions will be reviewed by the Environmental Interim Committee by October 31, 2029.

S.B. 51 – Secondary Water Requirements

Sponsor: Senator Jacob Anderegg

UASD Position: Support

S.B. 51 exempts secondary water suppliers located within a county of the third, fourth, fifth, or sixth classes from the requirement to establish secondary water meters on new construction. S.B. 51 also exempts secondary water suppliers located in a county of the first or second classes if there is no meter that a meter manufacturer will warranty because of the water quality within a specific location.

S.B. 84 – Public Entity Water Users Amendment (Failed to pass)

Sponsor: Senator Jacob Anderegg

UASD Position: Oppose

S.B. 84 did not pass, but had it passed, it would have required all counties, cities, towns, and metro townships in the state to develop water conservation plans to be submitted to the Division of Water Resources by November 30, 2020. The plan would have had to be modified until the Division approved it. With the exception of approved extenuating circumstances, all buildings owned or leased by these local forms of government would have been required to have meters installed and in use by January 1, 2021.

S.B. 144 – Water Related Process Amendments

Sponsor: Senator Ralph Okerlund

UASD Position: Support

S.B. 144 addresses the fundamental processes to obtain or change a water right. The Bill addresses some technical issues created by a recent Supreme Court decision. With the passage of S.B. 144, it is now clear that the filing of a proof of appropriation or permanent change is only between the applicant and the State Engineer. The purpose of a proof is to “prove” to the State Engineer the water has been placed to use in accordance with an approved application and any conditions of approval. This may allow additional time within which to complete development and place the water to full beneficial use. The Bill also makes clear that a certificate of appropriation issued by the State Engineer does not constitute a determination by the State Engineer as to whether the perfected appropriation or change has, or may result in, interference, impairment, injury, or other harm to another water right. A copy of this type of certificate is not required to be delivered to anyone except the appropriator or the person making the change. Filing a protest or judicial review action is not required to bring a judicial interference claim.