



## UTAH ASSOCIATION OF SPECIAL DISTRICTS

### 2018 BILL REVIEW

By

**Heather N. Anderson**  
Lobbyist

**Mark H. Anderson**  
General Counsel

**Rachel S. Anderson**  
Associate Counsel

By the end of the 2018 session of the Utah State Legislature, the Association was following and addressing more than 210 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. Once the lack of impact was confirmed, these bills 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 48 Bills, 34 (71%) of which passed. By the end of the legislative session, the Association opposed 16 Bills, 12 (75%) of which did not pass. During the session, a number of bills which the Association originally opposed were eventually amended or substituted, resulting in the Association changing its position on those Bills to Support or Track.

This analysis does not include every passed Bill that may impact your district, 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](http://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 the Association’s General Counsel, Mark H. Anderson, at (801) 323-2234 or [mhanderson@fabianvancott.com](mailto:mhanderson@fabianvancott.com).

**BOARD SELECTION, COMPOSITION, AND OPERATION****H.B. 66 – Local Government Modifications**

Sponsor: Rep. Stephen G. Handy

UASD Position: Support

H.B. 66 is a UASD Bill, which means it was a Bill drafted and suggested by the Association. This Bill provides that a local district board of trustees is not required to have an odd number of trustees if the board has more than 9 members. Once a board of trustees reaches a critical size, the requirement that the board consist of an odd number of members no longer serves any purpose respecting the ease of achieving a quorum or the likelihood of a tie vote.

This Bill also makes a number of changes regarding boards of trustees of a municipal services district (a “MSD”). These provisions affect the only MSD in the state—the Greater Salt Lake Municipal Services District in Salt Lake County. As previously stated in the law, the voting power of each member of the MSD board of trustees is weighted, based on the relative population represented by each Trustee. The Bill eliminates the requirement of a MSD to have an odd number of board members. With weighted voting, having an even or an odd number of trustees has no impact upon achieving a quorum. In addition, because of the board size and variable attendance, a tie vote is virtually impossible. This Bill also reduces from 2 to 1 the number of county council members who are appointed to serve on the board of trustees of an MSD. A second county council member serving on the board to represent unincorporated areas results in an increased workload for the county council member and comes with no additional voting allocation. The county receives only one weighted vote regardless of the number of county appointees.

**S.B. 175 – Metro Township Modifications**

Sponsor: Sen. Karen Mayne

UASD position: Support

There are five metro townships in Utah, all located in Salt Lake County: Copperton Metro Township, Emigration Canyon Metro Township, Kearns Metro Township, Magna Metro Township, and White City Metro Township. They are municipalities but, before S.B. 175, the head of each metro township council was identified as the “Chair.” S.B. 175 changes that title to “Mayor”—the same as for all other municipalities. The Greater Salt Lake Municipal Services District provides municipal-type services to all five metro townships and to the remaining unincorporated areas in Salt Lake County. S.B. 175 also amends the Municipal Services District Act by eliminating the statutory requirement that the Board of Trustees consist of an odd number and lowering, from two to one, the number of Trustees required to be appointed by the County Council to represent unincorporated areas. It also clarifies that a municipal services district may fund expenses and activities of a municipality and of a county (respecting unincorporated areas) that are located in the municipal services district.

## **DESIGN AND BUILD**

### **H.B. 279 – Design Professionals Liability Amendments**

Sponsor: Rep. Kay J. Christofferson

UASD Position: Track

H.B. 279 prohibits a provision in the design professional services contract that requires a design professional to *indemnify, hold harmless, or reimburse* attorney fees or other costs except in the case of the design professional's breach of contract, negligence, recklessness, or intentional misconduct, or in the case of the design professional's subconsultant's negligence. The Bill also prohibits a provision in a design professional services contract that requires the design professional to *defend* a person against a claim alleging liability for damages. The Bill establishes a specific standard of care for design professionals and prohibits contracts for establishing a different standard of care. This standard is that a design professional must perform its services "consistent with a specialized design expertise if the nature of the project that is the subject of the project that is the subject of the design professional services contract reasonably requires the specialized design expertise." Utah Code Ann. § 13-8-7(3)(a). It is very important to have an attorney review contracts with a design professional closely and have a separate contract. This new provision only applies to contracts signed after May 8, 2018.

### **S.B. 133 – Design and Build Amendments**

Sponsor: Sen. Karen Mayne

UASD Position: Support

S.B. 133 eliminates the minimum cost of \$250,000 from the definition of a design-build project.

## **ELECTIONS**

### **H.B. 16 – Candidate Replacement Amendments**

Sponsor: Rep. Patrice M. Arent

UASD Position: Support

H.B. 16 tackles a very specific situation where, after a nonpartisan primary election is held but (in the case of districts) more than 65 days before the general election, a vacancy occurs in a candidacy (i.e. a candidate drops out) and the remaining number of candidates is less than or equal to the number of open positions to be filled for that office. If this unusual situation were to occur, the election official shall fill the candidate vacancy by certifying the next available candidate who received the highest number of votes in the primary but who didn't previously qualify for the general election ballot. The election officer shall immediately notify the candidate that he or she is certified for the general election ballot.

**H.B. 141 – Early Voting Amendments**

Sponsor: Rep. John R. Westwood

UASD Position: Track

H.B. 141 permits an election officer to reduce the early voting period. For a municipal election, the municipal clerk may reduce the early voting period if the municipal clerk conducts early voting on at least four days, the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election, and the municipal clerk provides notice of the reduced early voting period in accordance with Utah Code Ann. § 20A-3-604. For a county election that is conducted entirely by mail, the county clerk may reduce the early voting period if the county clerk conducts early voting on at least four days, the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election, and the county clerk provides notice of the reduced early voting period in accordance with Utah Code Ann. § 20A-3-604.

**H.B. 218 – Modifications to Election Law**

Sponsor: Rep. Rebecca Chavez-Houck

UASD Position: Track

H.B. 218 is an omnibus, bipartisan voting policy bill that makes a number of changes to the Election Code. We summary just a handful of the changes here. The Bill introduces a version of automatic voter registration at the DMV. Citizens aren't automatically registered to vote when they register at the DMV, but they are required to make a selection as to whether to opt in to voter registration, rather than being able to skip or overlook that box on the registration. The Bill introduces same day voter registration to allow ballots cast by eligible voters who show up at the polls only to discover they are not registered to be counted. The Bill also makes some adjustments to mail-in voting, by prohibiting counties from relying entirely on vote-by-mail and, rather requiring in-person polling locations for those who drop off the vote-by-mail rolls.

**H.B. 281 Voter Registration Requirements**

Sponsor: Rep. Joel K. Briscoe

UASD Position: Track

H.B. 281 allows an individual who 17 years old to register for, and vote in, a primary election if the individual will be 18 years old by the general election.

**S.B. 17 – Election Law Modifications**

Sponsor: Sen. Wayne A. Harper

UASD Position: Track

S.B. 17 changes the due date for candidate information to be placed on the voter information pamphlet from 105 days prior to the election to the first business day in August. The Bill also changes the date a political party must notify the Lieutenant Governor's Office of the party's political convention. It also allows the director of elections the option of making rules to

provide for the use of statistical sampling procedures. Before the passage of this Bill, this was mandatory.

**S.B. 74 – Voter Privacy Amendments**

Sponsor: Sen. Karen Mayne

UASD Position: Track

S.B. 74 makes certain voter information private. Only the birth year and month of every registered voter is obtainable by qualified persons. In an effort to protect a voter’s identity, the day is unobtainable. The Bill amends the process by which a voter may request to make their records private. An individual no longer needs to state a fear for their, or their families, safety to request that their records be made private. Private records related to voter information may be disclosed by a government entity for a purpose related to voter registration or the administration of an election.

**EMERGENCY RESPONSE**

**H.B. 194 – Hazardous Materials Emergency Amendments**

Sponsor: Rep. Kelly B. Miles

UASD Position: Support

H.B. 194 gives the Hazardous Chemical Emergency Response Commission the authority to recover expenses directly associated with a response to a hazardous materials emergency from those persons whose negligence caused the emergency. Any recovered costs will be deposited in the general fund as dedicated credits to be used by the Division of Emergency Management to reimburse the expenses directly associated with a response to a hazardous materials emergency by a special service district, local district, municipality, county, or interlocal entity. The Association lobbied to include special service districts and local districts.

**EMPLOYMENT**

**H.B.146 – Post Retirement Reemployment Restrictions Act Amendments**

Sponsor: Douglas V. Sagers

UASD Position: Track

Generally, retirement benefits are more expensive to fund when members are encouraged to retire at an earlier age. Utah Code Ann. § 49-11-1205 imposes a one-year separation requirement that restricts but does not eliminate the ability for retirees to return to work following retirement, while continuing to receive a monthly retirement allowance. H.B. 146 repeals the requirement that for a retiree who is re-employed as an “affiliated emergency services worker” (typically a volunteer firefighter or reserve public safety officer), the termination date of the reemployment is considered the retiree’s retirement date for the purpose of calculating the one-year separation requirement.

**H.B. 147 – Retirement Forfeiture for Employment Related Offenses**

Sponsor: Rep. Craig Hall

UASD Position: Track

H.B. 147 requires that if an employee’s participating employer receives a notification from a district attorney, a county attorney, the Attorney General’s Office, or the State Auditor that an employee is charged with an offense that is, or may be, an employment related offense, the participating employer must immediately report to the entity that provided the notification if the employee is acquitted of the offense, if the employee is convicted of an offense that may be an employment related offense, and when the participating employer has concluded its duties under this section if the employee is convicted. This includes conducting an investigation, making a determination that the conviction was for an employment related offense, and notifying the Utah State Retirement Office. The notifying entity may assist the employee’s participating employer with the investigation.

If it is determined that the employee committed an employment related offense, the Utah State Retirement Office will immediately forfeit any service credit, employer retirement related contributions, including employer contributions to the employer sponsored contribution plans, or other retirement related benefits accrued by or made for the benefit of the employee, beginning on the date of the initial employment related offense.

**H.B. 288 – Workers’ Compensation Claims Amendments**

Sponsor: Rep. Ken Ivory

UASD Position: Track

H.B. 288 makes it illegal for an employer to suspend, discharge, discipline, threaten to discharge or discipline, or otherwise retaliate against an employee solely because the employee claims, or attempts, to claim workers’ compensation benefits. UASD had the Bill amended to include the word “solely.” If an employer has reasonable cause to suspend, discharge, discipline, threaten to discharge or discipline an employee, the employer may do so even if the employee is seeking a workers’ compensation claim as long as the disciplinary action has nothing to do with the employee seeking workers’ compensation. Any employer who violates this Section may receive a fine of up to \$5,000 for each violation.

**S.B. – 70 Human Resource Requirements**

Sponsor: Sen. Mayne

UASD Position: Track

UASD worked closely with Senator Mayne to make substantial changes to the requirements for districts in the Bill. Initially, every district would have been required to have an HR professional on staff or to hire an HR consultant, which would have been cost prohibitive for many districts. The final Bill simply requires every district with a full or part-time employee, and every charter school, in Utah to establish human resource management policies and ensure that at least one employee, or other person (which could include a board member), be assigned human

resource management duties and receive training in human resource management. To help districts with limited resources, the Bill also requires the Department of Human Resource Management to provide advice and recommendations. UASD will also provide HR training at the UASD Annual Convention in November 2018.

## **ETHICS**

### **H.B. 133 – Employment Amendments**

Sponsor: Rep Hall

UASD Position: Track

H.B. 133 expands the anti-nepotism law, found in Title 52, Chapter 3 of the Utah Code, to include people who reside in the same residence as the public officer. Now, a public officer may not employ, appoint, vote for or recommend the appointment of an appointee when the appointee will be directly supervised by a relative or household member. The requirements under the Title 17, Chapter 16a, County Officers and Employees Disclosure Act, and Utah Public Officers' and Employees' Ethics Act have been expanded to include the supervision of a person who resides in the same residence as the public officer.

## **FINANCE AND BUDGETS**

### **S.B. 124 – Budget Deadline Amendments**

Sponsor: Sen. Fillmore

UASD Position: Track

S.B. 124 changes the date required for certain governmental entities to adopt their annual budgets. The only included entity possibly pertinent to districts is a community reinvestment agency (“CRA”) governed under title 17C of the Utah Code. For CRA’s created by a municipality, their deadline is changed from June 22 to June 30. This Bill takes effect January 1, 2019.

## **FUNDING/TAXATION**

### **H.B. 21 – Changes to Property Tax**

Sponsor: Rep. Daniel McCay

UASD Position: Track

H.B. 21 modifies the calculation of the certified property tax rate by adjusting eligible new growth to account for collection rates over the previous five years. This Bill simply codifies into law what the Tax Commission already does. Previously, Utah Code Ann. § 59-2-1007 allowed property owners to object to their assessment by applying to the Tax Commission for a hearing on or before the later of June 1 or 30 days after the date on which the commission mails the notice of assessment. This Bill extends those deadlines to August 1 and 90 days, respectively.

**H.B. 168 – Political Subdivision Lien Authority**

Sponsor: Rep. R. Curt Webb

UASD position: Support

Local districts and special service districts have long held statutory authority to place a lien against property for past due service fees by certification to the County Treasurer, which lien “has the same priority as, but is separate and distinct from, a property tax lien.” Utah Code Ann. § 17B-1-902(1)(b)(ii). H.B. 168 adopts new Title 11, Chapter 58 of the Utah Code, entitled “political subdivision lien authority,” which fills or clarifies statutory gaps respecting the procedure to be followed in enforcing local and special service district liens, as well as other statutorily authorized liens imposed by or for a political subdivision. Once certified, thanks in part to clarifications made by this Bill, local and special service district liens for unpaid services are protected, and viable enforcement options are available to the district, including but not limited to triggering a tax sale of the subject property in accordance with Utah Code Ann. § 59-2-1343. *See* Utah Code Ann. § 59-2-1317(3)(b)(ii). The Association worked hard on this Bill, in coordination with other units of local government. Particular appreciation is expressed to the Utah League of Cities and Towns for a cooperative, collaborative approach to this Bill.

**S.B. 122 – Bond Elections Amendments**

Sponsor: Sen. Howard A. Stephenson

UASD position: Track

Originally, S.B. 122 prohibited a local political subdivision from receiving “an aggregate amount that exceeds the maximum principal amount stated in the bond proposition” approved by voters in an election held after May 8, 2018. With input from local governments and the bond community, the enrolled Bill prohibits a local political subdivision from receiving “an aggregate amount that exceeds by more than 2% the maximum principal amount stated in the bond proposition” approved by the voters, and the effective date was moved from May 8, 2018 to January 1, 2019. Utah Code Ann. § 11-14-301(7).

**IMPACT FEES****H.B. 250 – Building Permit and Impact Fee Amendments**

Sponsor: Rep. Mike Schultz

UASD Position: Track

H.B. 250 amends the definition of a “claimant” (of an impact fee refund) to include not only the original owner or another person who submits a timely notice of the person’s valid legal claim, but also to include “the person who paid the impact fee.” This Bill also creates a new method for challenging impact fees, in that a claimant may now challenge whether the political subdivision spent or encumbered an impact fee in accordance with the law. Such a challenge must be brought within one year after the expiration of the deadline for the entity to spend or encumber the impact fees (typically 6 years after collection of the fee) if the fee has already been spent or encumbered, or within two years after such date if the fee has not yet been spent or



encumbered. Finally, the Bill transmits a portion of the surcharge on building permits to the Office of the Property Rights Ombudsman to provide certain land use education and training available on its website.

## **LAW ENFORCEMENT AND FIRE**

### **H.B. 38 – Fireworks Restrictions**

Sponsor: Rep. James A. Dunnigan

UASD Position: Support

H.B. 38 provides a package of changes regarding the permissible discharge of fireworks and was the product of the collaboration of many interested parties, including our fire districts. The Bill allows a municipal legislative body, state forester, or metro township legislative body to close a defined area to fireworks based on a historical hazardous environmental condition. The Bill shortens the amount of time that individuals may legally use fireworks in Utah to July 2-5 and July 22-25—a reduction from 7 to 4 days in each instance. The Bill also increases the fine for illegally discharging fireworks. In certain situations, local governments and the state forester are required to provide maps identifying areas in which fireworks are prohibited due to hazardous environmental conditions and requires fireworks retailers to display maps that the county provides indicated areas within the county in which fireworks are prohibited. The signs must also list permissible discharge dates and times and criminal penalties for violations. If a person negligently, recklessly, or intentionally starts a fire using Class C fireworks, that person (or their legal guardian) may be responsible for the cost of suppression and any damages the fire caused.

### **H.B. 265 – Body Camera Amendments**

Sponsor: Rep. Daniel McCay

UASD Position: Support

H.B. 265 makes it illegal for any private entity to retain any body-worn camera recording made by an on-duty law enforcement officer if the private entity has the ability to withhold or prevent the political subdivision from accessing or distributing the recording. Contracts between the political subdivision and the private entity made by May 7, 2018 will remain valid. A political subdivision may not renew a contract with a private entity that falls within the above-mentioned criteria.

### **H.B. 305 – Fire Code Amendments**

Sponsor: Rep. Walt Brooks

UASD Position: Track

H.B. 305 amends provisions of the State Fire Code Act. It replaces the regulations regarding required access in the International Fire Code to include vehicle access for temporary and permanent roads to all demolition and construction sites to allow access to firefighting vehicles. Firefighting vehicle access must be provided to within 100 feet of temporary or permanent fire department connections. Temporary or permanent fire department access roads

must be functional before construction above the foundation begins and before an appreciable amount of combustible construction materials are on site.

**S.B. 21 – Public Safety and Firefighter Retirement Death Benefit Amendments**

Sponsor: Sen. Karen Mayne

UASD Position: Support

Under prior law, if a firefighter or public safety employee who has accrued 20 years of services, but has not yet retired, dies while off duty, their surviving spouse receives a reduced death benefit. S.B. 21 changes the law so that these employees are treated as if they had already retired, allowing their spouses to receive a full death benefit.

**S.B. 206 – Local Public Safety and Firefighter Surviving Spouse Trust Fund Amendments**

Sponsor: Sen. Todd Weiler

UASD Position: Support

A participating employer that employs a public safety officer or firefighter but does not cover the public safety officer or firefighter as a public safety service employee or firefighter service employee for retirement purposes, may now elect to participate in the Local Public Safety and Firefighter Surviving Spouse Trust Fund by making an election, entering into a cost-sharing agreement with the commissioner, and paying the cost-sharing rate determined by the board. A resolution must be adopted by the participating employer for an election to enter the above described employees into the fund. An employer is liable to the trust fund for failure to make a payment pursuant to the cost-sharing agreement. It is noted that an employee of a participating employer described in this Subsection is not eligible for coverage under Part 2, Health Coverage for a Surviving Spouse, if the employee is not eligible to earn service credit in a Utah Retirement System.

**S.B. 230 – Law Enforcement Protection Amendments**

Sponsor: Sen. Don L. Ipson

UASD Position: Support

All governmental agencies that employ law enforcement must distribute a form for an officer to request the removal or concealment of the officer's personal information from the state or local government agencies' publicly accessible websites and databases. Instructions and assistance to complete the form must be offered by the agency. A disclaimer informing the officer that by submitting a completed form, the officer may not receive official announcements affecting the officer's property, including notices about proposed annexations, incorporation, or zoning modifications. A county clerk must classify the law enforcement officer's voting records, marriage licenses and marriage license applications as private records. A county recorder, treasurer, auditor, or tax assessor, upon receipt of the form, must also classify the law enforcement officer's records as private. The law enforcement officer's records will remain private for four years after the submission of the form, even if the officer is terminated within that period of time. A completed form must be submitted directly by the law enforcement officer to the governmental entity for the records to be protected.

## **LOCAL AND SPECIAL SERVICE DISTRICTS**

### **S.B. 28 – Local Government and Limited Purpose Entity Registry**

Sponsor: Sen. Deidre M. Henderson

UASD position: Track

S.B. 28 creates a registry that will be maintained by the Lieutenant Governor and requires local government and limited purpose entities, including local districts, special service districts, local building authorities, interlocal entities, and governmental non-profit corporations, to register with the Lieutenant Governor, and provide detailed information about the entity, on or before July 1, 2019. The registration must be renewed every year thereafter and information must be updated within 30 days after any change. These requirements will be enforced by the State Auditor.

Working with the sponsor, the Association was able to obtain a number of amendments to the Bill to avoid or minimize the risk that a unit of local government would not be able to obtain the required information or that it would be unreasonably expensive to do so. Some changes were as simple as changing “shall” to “may” respecting the ability of the State Auditor to withhold allocated state funds or to prohibit access to money held by the State or a financial institution. Other amendments were directed at the information that must be provided to the Lieutenant Governor. For example, recognizing that extremely old records may be difficult or impossible to locate, the requirement that the entity provide “the resolution for other legal or formal document creating the entity” now allows the entity to provide other “conclusive proof of the entity’s lawful creation” if the actual creation document cannot be located. Utah Code Ann. § 67-1a-15(4)(a). In addition, if it is “impossible or unreasonably expensive” to create a map or plat or metes and bounds description of the entity’s geographic boundaries, other “conclusive proof of the entity’s geographic boundaries” may be substituted. *Id.* §67-1a-15(4)(b).

Pursuant to new Utah Code Ann. § 67-3-3(5)(a) “the state auditor may prohibit the access of a ... local taxing or fee-assessing unit to money held by the state or in an account of a financial institution, if the state auditor determines that the local taxing or fee-assessing unit is not in compliance with state law regarding budgeting, expenditures, financial reporting of public funds, and transparency.” However, the State Auditor must first send a notice of non-compliance and allow the entity 60 calendar days to make the specified corrections. At the Association’s request, the sponsor amended the Bill to, in lieu of compliance, allow the impacted governmental entity to “demonstrate to the state auditor that the specified corrections are not legally required.” *See, id.* § 67-3-3(5)(b)(ii)(B) and (d)(ii).

An initial registration fee of \$120.00 in fiscal year 2019, and an annual \$25.00 renewal fee thereafter, will be paid by an estimated 1,000 impacted local government and limited purpose entities, approximately 40% of which may be local and special service districts. Utah Code Ann. § 57-1a-15, which is new, should be consulted for particulars concerning the local government and limited purpose entity registry.

## **MOSQUITO ABATEMENT**

### **H.B. 59 – Unmanned Aircraft Revisions**

Sponsor: Rep. Dixon M. Pitcher

UASD Position: Support

H.B. 59 went through a number of variations throughout the legislative session and the Association amended it twice to ensure that fire districts and mosquito abatement districts would be able to provide quality services to the areas in and around prisons. This Bill makes it a class B misdemeanor to use an unmanned aircraft (i.e. a drone) to carry or drop any item into a prison facility or in a manner that interferes with the security or operations of the correctional facility. Mosquito abatement districts employees, or contractors of a mosquito abatement district, operating a drone under the scope of their employment duties were exempted from the Bill. This will allow larvicides and adulticides to be sprayed in and around correction facilities using an unmanned aircraft.

## **PROCUREMENT/PURCHASING**

### **S.B. 139 – Public-Private Partnership Amendments**

Sponsor: Sen. Wayne A. Harper

UASD Position: Track

S.B. 139 creates a new section, Section 63G-6a-712, of the Utah Procurement Code under Part 7, regarding requests for proposals. This section deals with unsolicited proposals for a public-private partnership. The language makes clear that after the contract or grant has been awarded and signed by all parties, an unsolicited proposal is not a protected record under GRAMA. An unsolicited proposal is defined as a written proposal for a public-private partnership for an infrastructure project, or a project to collect, analyze, and distribute health data to improve health and health care and to facilitate interaction regarding health and health care issues, and that is not submitted in response to a solicitation, and does not include an initial proposal. An unsolicited proposal cannot be used as a loophole to seek a procurement unit's consideration of a proposal because the private entity missed the deadline to submit a proposal for an RFP.

A procurement unit is not required to review an unsolicited proposal. A procurement unit is given the ability to charge a fee to the private entity who submits an unsolicited proposal to cover the actual cost of processing, considering, and evaluating the unsolicited proposal. A procurement unit may not award a contract for an unsolicited proposal unless the procurement unit first engages in a standard procurement process for proposals to provide the procurement item described in the unsolicited proposal or awarding the contract without the procurement unit engaging in a standard procurement process as allowed under Section 63G-6a-802.

A procurement unit's applicable rulemaking authority may make rules to govern the submission, processing, consideration, and evaluation of an unsolicited proposal, including fees relating to the unsolicited proposal.

### **REAL PROPERTY/EASMENTS/RIGHTS-OF-WAY**

#### **S.B. 189 – Small Wireless Facilities Deployment Act**

Sponsor: Sen. Curtis S. Bramble

UASD Position: Track

S.B. 189 creates the Small Wireless Facilities Deployment Act, to be codified as a new Chapter (Chapter 21) in Title 54 – Public Utilities. It permits a wireless provider to deploy a small wireless facility in any associated utility pole within a right-of-way, under certain conditions. UASD worked closely with the Utah Association of Counties, as well as the Utah League of Cities and Towns to amend S.B. 189 to include a number of safeguards for the “authorities,” defined in this Bill as any one of a number of governmental entities, including local districts and special service districts. An authority maintains the power to enforce any public right-of-way regulation if it is on a nondiscrimination basis and the purpose of the regulation is to protect the health, safety, and welfare of the public. An authority may adopt design standards for any small wireless facility or utility pole that is located within the authority's public right-of-way as long as it is reasonable, nondiscriminatory, and follows the rules created in the new Act. A wireless provider may not install a new utility pole in a public right-of-way without the authority's discretionary, nondiscriminatory, and written consent, if the public right-of-way is adjacent to a street or thoroughfare that is not more than 60 feet wide, as depicted in the official plat records; and adjacent to single-family residential lots, other multifamily residences, or undeveloped land that is designated for residential use by zoning or deed restrictions.

S.B. 189 also establishes a permitting process that must be followed by a wireless service provider seeking to take advantage of the rights given under this Bill. The Bill also sets reasonable rates and fees that may be charged by a district for the placement of a small wireless facility and utility pole. Agreements and ordinances must be followed by the wireless service provider. An authority is given the power to adopt indemnification, insurance, or bonding requirements for a small wireless facility permit, under certain conditions.

### **RECORDS**

#### **S.B. 137 – Amendments Relating to Government Records**

Sponsor: Sen. Curtis S. Bramble

UASD Position: Track

S.B. 137 clarifies that the transcript and report of a closed meeting of a public body are protected under GRAMA. It also clarifies that the recording of the portion of the meeting that was closed is considered a protected record. The Bill also modifies a provision relating to appeals of records request, stating that if the governmental entity is ordered by the records committee to produce a record and fails to file a notice of compliance or a notice of intent to

appeal, the records committee may impose a civil penalty and send written notice of failure to comply to only the Governor. Previously, in addition to notice being sent to the governor for executive branch entities, notice was also sent to the Legislative Management Committee for legislative branch entities and to the Judicial Council for judicial branch entities.

## **TRANSIT**

### **H.B. 85 – Public Transit Amendments**

Sponsor: Rep. Stephen G. Handy

UASD Position: Support

H.B. 85 allows passengers of public transit vehicles weighing more than 10,000 pounds to be exempt from wearing a safety belt. The driver is still required to wear a safety belt. According to federal law, seat belts are not required on buses with gross vehicle weight ratings greater than 10,000 pounds because larger buses rely on strong, well-padded, energy absorbing seats with higher seat backs to compartmentalize and protect passengers during a crash. These specialized vehicles are manufactured without safety belts. Public transit districts retrofit their paratransit vehicles to add seatbelts for its patrons with special mobility, medical, or emotional needs. This Bill allows a personal care attendant to stand and assist a customer if necessary, rather than be required to be sitting in another area away from the client. The passage of this Bill will also allow flex passengers to ride on a paratransit vehicle without a safety belt.

### **S.B. 136 – Transportation Governance Amendments**

Sponsor: Sen. Wayne A. Harper

UASD position: Track

Possibly excepting the Inland Port Authority Bill, S.B. 136, a 222-page Bill that reorganizes the Utah Transit Authority, received as much press coverage as any other Bill. In addition to completely reorganizing the Utah Transit Authority, among other changes, this Bill replaces the current “traditional” UTA Board of Trustees with a three-member, full-time salaried Board of Trustees following the Utah Tax Commission model.

The Bill also included new and additional funding opportunities to assist UTA in meeting its goals. That funding was stripped from the Bill is the 5<sup>th</sup> Substitute and restored by the 6<sup>th</sup> and final Substitute Bill. Municipalities served by UTA now may impose the county option sales and use tax for highways and public transit under Utah Code Ann. § 59-12-2219 if the county has not already imposed the tax. In addition, counties may choose to impose the new county option sales and use tax to fund a system for public transit pursuant to Utah Code Ann. § 59-12-2220 of up to 0.2% on non-food taxable sales which, according to the Fiscal Note attached to the Bill, could generate an additional \$115,500,000 in sale tax revenue. The Fiscal Note also states that the Bill may cost UTA \$1,200,000 due to replacing volunteer board members with three full-time trustees and support staff. Although a dollar amount is not stated in the Fiscal Note, the mandated name change from “Utah Transit Authority” to “Transit District of Utah” is expected to cost tens of millions of dollars due, among other things, to the cost of changing the identification on all UTA buses and trains. The name change is to be implemented over time and, it is hoped, it might be removed by the Legislature before too much money is wasted.

Instead of UTA having its own staff of attorneys, the Utah Attorney General will provide legal counsel, for which UTA will pay, with the change to be transitioned over time. Key provisions of the Bill are narrowly crafted to impact only a “large public transit district,” with only UTA satisfying the statutory definition, thereby leaving all other transit districts largely unaffected by the Bill (but they may realize enhanced funding opportunities). The Bill also impacts the Utah Department of Transportation, which assumes a number of duties and will be required to employ additional personnel.

## **WATER AND WATER RIGHTS**

### **H.B. – 74 Emissions Inspections Modifications**

Sponsor: Rep. Scott D. Sandall

UASD Position: Support

H.B. 74 exempts pickup trucks owned by a canal company that are being used exclusively for canal and irrigation purposes from emission inspection requirements. To receive the exemption, the canal company must provide a signed statement to the legislative body of the county stating that the pickup truck qualifies for the emissions inspection exemption under this new section of law.

### **H.B. 303 – Drinking Water Source Requirements**

Sponsor: Rep. Scott D. Sandall

UASD Position: Support

H.B. 303 modifies portions of the Safe Drinking Water Act of Title 19, Chapter 4 of the Utah Code by requiring a community water system serving a population of 500 or more to collect and annually report accurate water use data to the Division of Water Rights. The Bill requires the Director of the Division of Drinking Water to establish system specific water source sizing requirements, depending on the size of the system. The Board of Drinking Water is empowered to make rules setting fines and penalties for failure to comply with such reporting requirement. Wholesale water suppliers serving a population of more than 10,000 and serving a population that is 75% or more of the total population served.

### **H.B. 381 – Agricultural Water Optimization**

Sponsor: Rep. Timothy D. Hawkes

UASD Position: Track and Amend

H.B. 381 creates the Agricultural Water Optimization Task Force for the purpose of identifying critical issues facing the state’s long-term water supply, identify current obstacles to, and constraints upon, quantification of agricultural water use on a basin level, and identify means, methods, systems, or technologies with the potential to maintain or increase agricultural production while reducing the agricultural industry’s water diversion and consumption. The task force is to consist of a person representing the Department of Agriculture and Food, a person representing the Board or Division of Water Resources, a person representing the Division of Water Rights, a person representing the Division of Water Quality, a person representing the interests of the agricultural industry, a person representing environmental interests, a person

representing water conservancy districts, and one nonvoting member from the higher education community with a background in research. The Association's attempt to amend this Bill was an effort to get more than just conservancy districts included in the task force, but this did not ultimately occur.

**S.B. 34 – Legislative Water Development Commission**

Sponsor: Sen. Margaret Dayton

UASD Position: Support

S.B. 34 removes the December 31, 2018 sunset date for the Legislative Water Development Commission and authorizes the Commission to meet up to six times per year without approval from the Legislative Management Committee.

**S.B. 35 – Water Right for Trout Habitat Repeal Date**

Sponsor: Sen. Allen M. Christensen

UASD Position: Support

S.B. 35 extends the repeal date of the instream flow water right for trout habitat from December 31, 2018 to December 31, 2019.

**S.B. 45 – Water Law Amendments – Diligence Claims**

Sponsor: Sen. Margaret Dayton

UASD Position: Support

S.B. 45 requires the State Engineer, when conducting a field examination of a diligence claim, to include an evaluation of the asserted beneficial use as it existed at the time of the claimed priority date, specifically identifying any portion of the claim not placed to beneficial use in accordance with law. As per existing portions of the statute, this law only applies to diligence claims submitted on or after May 14, 2013.

**S.B. 61 – Water Rights Adjudication Amendments**

Sponsor: Sen. Margaret Dayton

UASD Position: Support

S.B. 61 makes a few changes to the part of the Water Code dealing with general adjudications of water rights. A minor technical modification is made to the wording of the general adjudication summons. The Bill states that an untimely Water Users Claim filed in the general adjudication shall be returned to the claimant with no further action. Finally, it authorizes the State Engineer to file addenda to a proposed determination.

**S.B. 96 – Canal Amendments**

Sponsor: Sen. David P. Hinkins

UASD Position: Support

S.B. 96 provides a process for a property owner and the owner of water conveyance facility to approve and move forward with a plan to modify a water conveyance facility, and



states that the Property Rights Ombudsman can provide mediation and arbitration services in this regard when requested.

4812-6319-1905, v. 1