

Date: 1-21-21

House Public Utilities, Energy, and Technology Committee

Bill: HB17, Utility Permitting Amendments

Sponsor: Rep. Handy

Floor Sponsor: Sen. Hinkins

UASD Position: Tracking

This Bill: prohibits municipalities and counties from making certain restrictions on utility services.

Discussion: Representative Handy stated that this bill is about preserving and maintaining customers choice on what energy sources they use. States like Massachusetts and California have banned certain energy sources. For affordable housing, individuals should be able to determine the energy source they use. There have not been any cities or counties that have tried to pass ordinances like this bill. This bill is designed to be proactive so Utah does not have similar bans to California and Massachusetts. This bill should not hinder the work on new renewable energy sources like natural gas. This bill would mean municipalities could not stop individuals from using certain energy sources. However, municipalities can encourage certain energy sources. The issue of whether or not a city or county could ban an energy source from being built is uncertain. The Utah Association of Municipal Powers opposes this bill because they believe the bill is a solution in search of a problem that does not exist. Utah Clean Energy opposes this bill because the legislation is unnecessary, has very broad language, and they don't want to discourage communities from using new energy sources. The Utah Association of Counties, as well as Utah League of Cities and Towns, also oppose this bill. The Utah Association of Counties expressed desire to work with the sponsor to amend some language. The Utah Municipal Power Agency opposes this bill because this may impact the choice of cities and towns to determine what is best for their residents. The Utah Sierra Club strongly opposes this bill because they believe it undermines efforts to advance cost effective climate solutions. Rep. Christofferson voiced strong support for this bill and its efforts to not eliminate energy sources.

Yeas: 8

Nays: 4

N/V: 0

Outcome: Passed out of committee with favorable recommendation.

H.B. 141 Municipal Services Amendments

Sponsor: Representative Brooks

UASD Position: Oppose

This bill: modifies requirements for a municipality to furnish municipal electric service in an area being annexed by the municipality.

Discussion: Representative Brooks stated the need for this legislation. A simple change proposed in HB 141 is necessary to help correct an issue being faced by all non-municipal power providers in the State, including Rocky Mountain Power. The proposal is to change the word “the” to “any” on line 65 and “each” to “any” on line 67. This change is necessary because of a ruling of the court in 2019. The recommended change will maintain the interpretation and practice that has been applied since this statute was originally adopted. Jeff Petersen, with the Utah Rural Electric Cooperative Association, presented with the sponsor. He spoke to a 2019 court ruling that caused the need to change the wording to “any” to prevent numerous providers from running multiple parallel lines to provide the same electrical service. The entire service area must be served, as opposed to cherry picking the most desirable customers. He believes that lines 70-75 would leave Rocky Mountain Power out of any ruling made by the Utah Supreme Court in a case involving South Valley Utah Electric District (“SESD”) and three cities trying to annex areas within the boundaries of SESD and take over providing electrical services for the annexed areas.

Jon Cox, with Rocky Mountain Power, claimed that lines 70-75 are designed to avoid the decision on the one piece of litigation before the Utah Supreme Court from spilling out to other public utilities throughout the state. Kevin Garlick, with the Utah Municipal Power Agency, testified in favor of HB 141. He mentioned that the language carves out a protection from the current litigation for all electric service providers in the state. Legrand Bitter, with the Utah Association of Special Districts, stated the concerns the Association has with the Bill. UASD supports the changes made in lines 65 and line 67. Mr. Bitter stated that lines 63-64 and lines 70-75 are problematic because the attorney for SESD believe this language would tip the scales with the litigation to be heard this summer by the Utah Supreme Court. The language in these lines would also create issues with current bond compliance and could create problems securing bonds in the future. Ray Loveless, Chairman of the South Utah Valley Electric Service District, stated that SESD is in favor of the changes in the lines 65 and 67. Documents have been filed and, therefore, he believes the Utah Supreme Court should rule on the case before legislation is created on the topic. Mark Holdaway, representing SESD, also testified that the language could impact the Utah Supreme Court ruling. He requested that all parties involved should come to the table to work out a solution. Because the District is subject to multiple sections of the Code, the Supreme Court will rule as to where SESD should fall within the Code. Mr. Holdaway asked that the Legislature address issues that may arise due to the Utah Supreme Court ruling next year, if there are any. He believes all electric service providers should be under the same portion of the law and treated equally under the law. The way HB 141 is written, it singles out SESD.

Committee members believe that having a Bill that carves out the litigation going on in South Utah Valley, while not impacting all other electrical service providers, is fulfilling the original intent of the Legislature. A member of the Committee asked to add language that the intent of the Legislature relates to clarifying the Code moving forward, and that the intent is not to guide the Utah Supreme Court in ruling on the current litigation involving SESD. That suggestion was rejected by the sponsor and Representative Stratton.

Yeas: 12

Nays: 0

N/V:

Outcome: The Bill passed out of committee with a unanimous favorable recommendation