

Date: 1-28-21

## **House Government Operations Committee**

### **Bill: HB 43 Emergency Procurement Declaration Modifications**

Sponsor: Rep. Pierucci

Floor Sponsor: Sen. McCay

#### **UASD Position: Tracking**

**This Bill:** This bill modifies provisions related to the public procurement of goods or services during an emergency.

**Discussion:** Rep. Pierucci said that this bill is intended to address some of the pandemic no-bid contracts. She worked with Chris Hughes with the Division of Purchasing and General Services on language that allows the executive branch to be nimble and responsive, while putting guardrails into place. This bill places a 30-day cap on the length of an emergency contract, with the exception of natural disasters, which will have a 60-day cap. After the 30-day contract, an agency would need to follow the normal competitive bid process. They could still work with the same vendor, but that vendor would need to submit a bid. The bill also requires that the contract be publicly available within 14 days. Rep Pierucci said that ultimately, the people are better served by the competitive bid process and this bill will bring more transparency. Rep. Val Peterson asked why 60 days for natural disasters? Rep. Pierucci said disaster clean-up typically goes beyond 30 days. Rep. Peterson noted that the pandemic goes beyond 30 days. Rep. Pierucci explained that the pandemic is not a natural disaster so it would still allow them 30 days, but afterward it would need to go into a competitive bid process. Rep. Waldrip asked what the process would look like. Chris Hughes said the 30 and 60 days would give them enough time to assess the emergency services and determine whether a contract needed to be put into place. Rep. Pierucci said she has been working with the governor's office and they initially had some internal questions but are now fine with the bill. Rep. Waldrip asked if the idea was that short-term purchases can handle immediate need, but for a long-term problem emergency orders would be supplanted by a regular order. Rep. Pierucci said yes, the idea is to stop the bleeding and give agencies the time they need to move forward with the competitive bid process. Rep. Maloy asked for an example of a non-natural disaster. Rep. Pierucci said a broken pipe is the one most agencies use. She explained that we don't have to be under a state of emergency for an agency to issue an emergency procurement.

Yeas: 10

Nays: 0

N/V: 1

**Outcome: Passed unanimously with a favorable recommendation.**

Date: 1-28-21

## **House Government Operations Committee**

### **Bill: SB 23 Emergency Task Force**

Sponsor: Sen. Thatcher

Floor Sponsor: Rep. Ray

### **UASD Position: Support**

This Bill: authorizes a contract between certain state entities for responding to an emergency.

Discussion: Former Rep. Eric Hutchings said this bill came out of disaster mitigation working groups. The bill allows the state to do preemptive work and put contracts in place ahead of time, so that when you have an emergency the infrastructure to deal with it is already set up. Rep. Waldrip asked what the scope of possibility of this bill is. Does this include every emergency situation possible? Mr. Hutchings said that it has to stay under the scope of emergency management, and it's intended to be natural disasters or things that have a little more predictability. Rep. Waldrip brought up rioting. Mr. Hutchings said, "Hopefully not." Rep. Lyman asked for a summary of the problem that this is trying to fix. Mr. Hutchings used a forest fire as an example. It brings up the following questions: Is it on state land? Federal? County? Who can respond? Up to what line can they respond? If they cross that line, will their insurance no longer cover them? This will allow them to go region-by-region over the most likely scenarios so that when a fire shows up, they already have the contracts in place. On state property, who has the liability? He explained that the bill allows for task forces, and that this pre-planning is currently done unofficially. Rep. Lyman asked if the task force would be localized. Mr. Hutchings confirmed that. Rep. Michael Petersen asked what triggered this. Mr. Hutchings said many of these questions were generated by Puerto Rico. If you have a large enough disaster that you need to have medical personnel from another state come in to help out, you need to know if they're licensed in that state. Rep. Petersen asked if there was a problem. Mr. Hutchings

said the biggest problem was figuring who covers it when someone gets injured. He explained that some of that has taken years to sort out. Rep. Petersen asked about the \$700 dollars coming from the education fund in the fiscal note. Mr. Hutchings said it depends on who pays who, so it may or may not have an impact on that. He noted that the fiscal note may need to be modified since they made some adjustments over the past year. It includes \$700 from the education fund, and the total impact from all categories is \$22,000. Brian Case, program manager for Utah Task Force 1 explained that his team has no problem conducting search and rescue operations because the hands-on work is easy, but the administrative functions are difficult and delayed at the state level. On the federal side, they have a long-standing set of mechanisms to deploy their task force out of state. He hopes that this bill would allow him to bring those forms and processes to the Department of Emergency Management in the state. Other task forces could benefit from their structure and management. This bill would better define how the state could access their task force.

Yeas: 10

Nays: 0

N/V: 1

**Outcome: Passed unanimously with a favorable recommendation.**

Date: 1-28-21

**House Government Operations Committee**

**Bill: 1st Sub HB 173 Vote Reporting Requirements**

Sponsor: Rep. Hall

Floor Sponsor:

**UASD Position: Tracking**

This Bill: addresses the information to be reported by election officials when tabulating election results.

Discussion: Rep. Hall began by saying he was speaking to the first substitute. He explained that this bill will require the county clerk's office to give an estimate of how many votes are left

during vote counting for an election. This will give a better understanding of the likelihood of success of someone winning. The original bill required a precise count of how many ballots were left to be counted, however additional staff would need to be hired to count exactly how many ballots were left and that led to a bigger fiscal note than desired. The language in the first substitute requires an estimate rather than the precise number. The bill requires the numbers to be released whenever there is an update in the count, rather than every day. They will exempt election day, because there are so many things to do on that day. Rep. Peterson noted that estimates are tricky, and asked if the estimates will be by 10s, 100s, 1000s? Rep. Hall said Ricky Hatch can give a better answer, but they'll take the ballots, weigh them, and produce a pretty good estimate of how many remain. More ballots come in every day after election day, so they'll do another estimate every time required. It is in their interest to provide the best estimate possible. Rep. Peterson asked that there was a process. Rep. Hall said yes, his understanding was that they do have a process to come through to get that estimate. He also noted that some county clerks already do this. Rep. Maloy asked when this might be important. Rep. Hall said it has to do with expectations after election day. If you know how many votes remain, you know if you still have a chance of winning. If you're down by 5,000 votes and only 2,000 remain, then you should concede. It gives the candidates, public, and media a better understanding of who may or may not win. Rep. Maloy asked if there are concerns that this would put doubt in voters minds of the legitimacy of the count. Rep. Hall said he has no concerns and believes this would help with perception of the legitimacy of the election. If we're not told how many votes are left and some stunning reversal of the count comes in a week later, that may bring questions about the legitimacy of the election. But if we know on day 3 after election day that there are 20,000 remaining votes, then we can expect that the results are too close for the race to be called. Rep. Welton asked if this is something candidates don't have access to right now. Rep. Hall said it depends on the county. Rep. Welton asked if candidates can reach out and get an estimate. Rep. Hall said a campaign could call the county clerk's office. He added that in Salt Lake County, there may be 50 campaigns curious about election results, with three people calling from each campaign. He said if it was released on a regular basis it would give campaigns the information they were looking for, and reduce the burden on the elections office because they would have fewer phone calls to answer.

Ricky Hatch, Weber County Clerk/Auditor and chair of the Utah County Clerk's Association Committee, said the clerks this morning changed their position from opposed to neutral. The clerks currently provide this information, but they only do it on the day after election day. Of course, that is an estimate and some ballots trickle in if they were mailed after the deadline. They still get calls and will continue to get calls from campaigns. They are neutral because they prefer to focus on the actual counting of ballots. There are various ways to estimate how many ballots remain. Salt Lake County uses the weighting method. Many use the mail trays that the ballots come in, knowing they hold a certain number of ballots. The one thing they can't do is say how many ballots remain for a specific legislative race. Those come in from all across the county and

aren't segregated by precinct or legislative district. They can give overall estimates, but they are rough estimates done by people working 18 hours a day for 2 weeks. It is in their best interest to have it be as close as possible, but they are concerned that if they estimate and the final numbers differ, there could be allegations of fraud. Rep. Waldrip said he shares that concern. Mr. Hatch said there isn't a way to address it on a federal level without overreach. If they end up reporting these estimates, they will include extensive caveats. Rep. Dailey-Provost said she is concerned about the requirement that this count be accurate because in larger counties there are many ballots added every day. Rep. Hall noted that the substitute replaced the exact number with an estimate. Rep. Dailey-Provost asked if there's a chance that a member of the public could come back and accuse the clerk of harm. She said she doesn't want to leave open the door for negative recourse against clerks. Rep. Hall said there would be no statutory cause of action in the bill. He said disclaimers were advisable to manage expectations. Josh Daniels from the Utah County Clerk/Auditor's Office representing clerk Amelia Powers Gardner spoke. He said this is a good bill that will help create consistent expectations across jurisdictions. They get dozens and dozens of requests for data and transparency is important. He believes this will increase public confidence in the election. He said their process is using a scale for all ballots that come in the door. Mr. Daniels added that larger counties have sophisticated mail processing machines that count each ballot. He showed the Utah County website and their dashboard of statistics. He also said that if they're able to share this data, it'll keep the national media from getting ahead of themselves and calling races that shouldn't be called. The more data they can share, the better decisions the public and media will make. The first substitute was adopted. Rep. Dailey-Provost said she wasn't 100% sure a zero fiscal note was accurate, but she was excited about the policy.

Yeas: 9

Nays: 0

N/V: 2

**Outcome: Passed unanimously with a favorable recommendation.**