

Date: 3-1-21

House Political Subdivisions

Bill: 1st Sub. HB 409 Municipal and County Land Use and Development Revisions

Sponsor: Rep. Waldrip

Floor Sponsor:

UASD Position: Support

This Bill: revises provisions related to municipal and county land use development and management.

Discussion: Rep. Waldrip said he would be speaking to the first substitute and an amendment. The bill contains technical revisions to the Land Use Act that were negotiated over the interim. The League of Cities and Towns, Ivory Development, the Utah Association of Realtors, and the Utah Property Rights Coalition support the bill. The first substitute was adopted. Amendment One was adopted.

Yeas: 9

Nays: 0

N/V: 1

Outcome: 1st Sub. HB 409 passed out of committee with a favorable recommendation.

Bill: 1st Sub. SB 65 Community Reinvestment Agency Amendments

Sponsor: Sen. Harper

Floor Sponsor: Rep. Handy

UASD Position: Tracking

This Bill: amends Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Discussion: Sen. Harper explained that the largest portion of the bill explains what happens if a taxing entity or community redevelopment agency wants to renew an expiring project area. There is an option to enter interlocal agreements. It requires the agency to allocate a portion of that property tax for affordable housing, and prohibits the agency from creating certain types of new project areas. Rep. Weight asked how this impacts taxpayers. Sen. Harper said it is intended to have a neutral impact on taxpayers. It does affect the ability for taxing entities to get back money they have been promised. The Utah Taxpayers Association appreciates the public hearing added into the substitute requiring a public hearing to notify the public that taxing entities have decided to change revenue into a property tax levy. However, their position has not changed on the bill.

Yeas: 9

Nays: 1

N/V: 0

Outcome: 1st Sub. SB 65 passed out of committee with a favorable recommendation.

Bill: 2nd Sub. SB 52 Property Tax Deferral Modifications

Sponsor: Sen. Fillmore

Floor Sponsor: Rep. Spendlove

UASD Position: Tracking with Concern

This Bill: modifies the deferral provisions of the Property Tax Act.

Discussion: Sen. Fillmore explained that the bill allows seniors to defer property taxes with interest. When the estate turns over, those taxes become due. Rep. Dunnigan moved to adopt Amendment Two, changing 15 years to 20 years. Sen. Fillmore said this takes the bill back to the agreement reached between the taxpayers and counties. The amendment was adopted. Rep. Weight asked about a scenario where the house is sold because the owner is moving to assisted living. Sen. Fillmore explained that the taxes are due on the transfer of the property, plus interest. The taxing entity would have a lien on the home, and it would be held prior to the dispersal of the funds. Rep. Weight asked if the homeowner and their family would be responsible to know that the taxes are due. Sen. Fillmore said they would be responsible for that, although since they would apply yearly they would probably remember. Rep. Gwynn asked about reverse mortgages.

Sen. Fillmore said the bill does not address that. Rep. Gwynn asked if that might be a problem. Sen. Fillmore said he doesn't believe it would be. Rep. Gwynn asked what the potential is for the fiscal note to grow as the population of seniors increases in the state. Sen. Fillmore said the fiscal analysts used information available to them through reverse mortgages. It is theoretically possible that the fiscal note would grow, but it is incredibly unlikely. Rep. Gwynn said there are already remedies available to residents if they work with local governments. He asked why the state should step in when this opportunity is already available at the county level. Sen. Fillmore said this is only available in some counties. This bill creates uniform policy across the state. Rep. Kohler said he likes the idea, but he's worried about the deferral of taxes. Is there an accounting system that will be maintained? Sen. Fillmore said this doesn't create any new system. However, states already track people who aren't paying their property taxes. Deferrals would be taken into account on a rolling five-year average. When the tax comes due, it will be paid, the interest will be paid, and the certified tax rate will drop. The interest benefits all taxpayers. Rep. Gwynn asked if there are statistics about the average number of years these programs are used. Is it typically five years? Sen. Fillmore said he assumed the fiscal analysts looked at similar programs in other states when calculating the cost.

Rep. Musselman said he prefers this to the circuit breaker program. From the counties' perspective, is this isolated to a small enough group that it doesn't affect how they can budget going forward? Sen. Fillmore said there is always some uncertainty when it comes to property taxes. He noted that the fiscal note is relatively small. Rep. Musselman said he believes that taxes should be as uniform as possible. Would it be possible to replace the circuit breaker program with this one? Sen. Fillmore said that would be up to a future legislature. He agrees that this program is superior, because it achieves the same policy goal with a smaller impact than the circuit breaker program. The bill represents a starting point, so eventually the data can be compared and policy decisions can be made in the future. Rep. Musselman asked what happens if a reverse mortgage depletes the equity until there's nothing left. When the home is turned over to the heirs, would it go to the bank who would ensure that all taxes were paid? Sen. Fillmore said that is correct. Rep. Bennion said Salt Lake County has no people losing their homes due to current programs. Sen. Fillmore said this bill extends this program from counties using it successfully to all counties. Rep. Bennion asked why counties are contacting her to share their opposition if it's the same as the current programs. Sen. Fillmore said he can't speak for any county, but this was the agreement reached with the Utah Association of Counties. Rep. Teuscher said he doesn't see any place someone personally guarantees that their estate would be liable. Sen. Fillmore said that came up in negotiations, but the lien on the state is the personal guarantee. That scenario is also deeply unlikely. Rep. Teuscher asked what happens if someone takes out a home equity loan and enters into this program, but when the taxes are due they have nothing left. Is there something to prevent that? Sen. Fillmore said that is not allowed in the program as drafted. They're required to have equity in their home to receive the deferral, and then the lien is in first position once they do. Any home equity loan would be subject to the lien.

Rep. Teuscher asked where those are in the bill. Sen. Fillmore said since the lien is a government lien, it trumps any others. Rep. Teuscher asked if that's in a different section of code. Mike Melendez with the Libertas Institute explained that deferrals are already given out. If you have a reverse mortgage, you can't get a deferral without permission from the mortgage holder. That is the backstop preventing Rep. Teuscher's scenario. The bank won't let someone get a deferral if they are overleveraged on their home. Rep. Musselman said a property tax lien is paid first, regardless of all other obligations. Sen. Fillmore referred Rep. Teuscher to lines 97-98. Rep. Dunnigan asked if there is any financial underwriting or validation by the county treasurer. What if they don't feel there's enough equity at the time someone requests a deferral? Mr. Melendez said that's why they offered a three-year period where the county may offer the deferrals, before they must. That period allows them to collect the data and evaluate the impact of the program. Rep. Dunnigan asked if the other taxpayers subsidizing the deferral are guaranteed to get their money back with interest. Sen. Fillmore confirmed that.

The Utah County Property Tax Administrator supports the bill. However, he is concerned about whether a property coming off deferral can immediately go to tax sale. The Utah Taxpayers Association, AARP Utah, and the Utah Housing Coalition support the bill. Salt Lake County Treasurer K. Wayne Cushing is concerned about the increase in taxpayers who choose this option, significantly reducing the property taxes they are able to collect. Rep. Dunnigan asked if it gives him any comfort that the age was raised to 75, and the 20-year rule. Mr. Cushing said he's very grateful for the age limit, but the 20-year rule allows many more people to participate. Rep. Dunnigan noted that there is an income limit, but the 20-year rule provides an exception. Sen. Fillmore said the original bill didn't have an age limit or a limit on the price of the home. The counties were part of the negotiation of every line of the bill. The home value and income limits were placed at the request of the county treasurers. Rep. Dunnigan asked about lines 92-94. Sen. Fillmore explained that is a limit on the value of the home. The Washington County Treasurer, David Whitehead, explained that most of the county treasurers' requests were modified. After three years, local governments will no longer have control under this bill. There is not an issue with older people losing their homes. Rep. Teuscher said this is a good solution and moved to recommend the bill favorably. Rep. Kohler said this will essentially turn into a reverse mortgage. Rep. Gwynn made a substitute motion to strike lines 84-85 so that the counties would not be required to comply in three years. Rep. Teuscher said that strikes at the heart of the bill. Without those lines, there's no reason to pass the bill. Rep. Christiansen expressed his support for the amendment. Sen. Fillmore said the problems people fear are not present in other states, similar programs, or in private market reverse mortgages. If the counties are not required to comply in three years, they will never be required to comply. The amendment failed 4-5. Rep. Christiansen made a substitute motion to strike lines 84-85, and establish a sunset date of June 30th, 2024. Rep. Teuscher expressed his opposition to this amendment. Rep. Nelson said this effectively neuters the bill. The amendment failed 4-5. Rep. Dunnigan asked what would happen if they amended line 84 to force counties to comply in four years, rather than five. Sen. Fillmore

said if that would allow the bill to pass out of committee, he would support it. Rep. Christiansen said he will support the bill in committee, but his vote may change on the floor.

Yeas: 8

Nays: 1

N/V: 1

Outcome: 2nd Sub. SB 52 passed out of committee with a favorable recommendation.