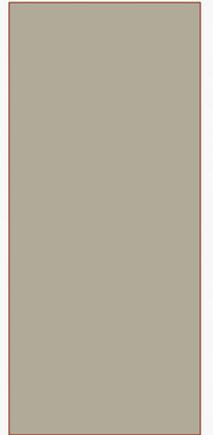


LEGISLATIVE REPORT

2024





2024

Spring Training

UTAH LEAGUE OF
CITIES AND TOWNS



Land Use Update

Quick Session Overview

- **\$28+ billion budget**
- **862 bills + 78 resolutions introduced**
- **591 bills passed — a record high**
- **ULCT tracked 247 bills — a record high**

ULCT Legislative Wrap Up:

Coming Soon; see ulct.org/wrap or scan QR code

For Transportation:

Wasatch Front Regional Council Legislative Wrap-up @ wfrc.org;

Mar 26 spring training

APA May 10th Cedar City Land Use Deep Dive





New housing product

Modular Housing
(SB 168)



Financing tools

- a) Infra districts (HB 13)
- b) PTIF (HB 572)
- c) FHIZ (SB 268)



Process updates

- a) CHA bill (HB 465)
- b) LUTF (HB 476)



Partnership, not preemption, in planning for housing



2024 Bills that Passed

2024 Bills that Passed

SB 208

SB 268

HB 572

HB 13

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HB 476/subs

SB 185

HB 289

Other Land
Use Provisions

SB 208: HTRZ Amendments

Sen. Wayne Harper and Rep. Stephen Whyte

- Enhances the "but for" test
 - "data showing the cost difference between what type of development could feasibly be developed absent the HTRZ and the type of development that is proposed to be developed with the HTRZ tax increment"
- Consideration for owner-occupied housing
- Increases % of required affordable units
- Addresses phasing of housing units
- Increases HTRZ committee members
 - 1 more House, 1 more Senate, 1 more school district

Why you should care:

Success of HTRZ set stage for other increment bills ... and 2024 interim

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SB 268: First Home Investment Zone Act (FHIZ)

Sen. Wayne Harper and Rep. Cal Musselman

City option; proposal includes a center AND extra-territorial areas



FHIZ Center

51% of developable acreage within the center must be used for housing



Extra-territorial Areas

- Can count "extra-territorial" areas toward the housing requirements
- Extra-territorial housing units must meet density + affordable home ownership criteria
 - 6 units to acre
 - 100% owner-occupied
 - 20% affordable

Overall Project

- 30 units to the acre for overall project
- HTRZ committee approval, then up to 60% of tax increment for 25/45 years
- Parameters/caps in SL Co (11 FHIZs/HTRZs max; city can do FHIZ only if city's RDA does not have excessive unencumbered revenue in RDA)

2024 Bills that Passed

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Other Land Use Provisions

FHIZ Hypothetical Example

Assume an approx. 65-acre FHIZ zone development, plus related homes outside the zone.

Outside zone but within city:

- 500 homes, all owner-occupied. At least 80% (400) detached. Minimum density of 6 units per acre
 - *These homes "count" toward the density requirement inside the FHIZ*
- At least 20% of the 500 homes (100) are affordable

Inside FHIZ zone:

- 500 homes, with a mix of housing types
 - *Base requirement is 30 units per acre on 51% of developable land; so ~65 acres x .51 x 30 = ~1000 homes. But the 500 homes outside the FHIZ zone "count" toward the number of homes required inside the zone. So the required number of homes inside the zone is lowered to 500*
- At least 12% of the 500 homes (60) are affordable, at least 25% owner occupied (125)
- Mix of uses (residential, commercial, open space, etc.)

- = 1000 new homes
- = at least 625 owner-occupied homes (100% of homes outside the FHIZ zone, and at least 25% of homes inside FHIZ must be owner occupied)
- = at least 160 affordable homes



500 new homes in FHIZ boundaries
At least 125 owner occupied
At least 60 affordable



Tax increment can be used for project development and related system infrastructure costs



500 new homes outside of FHIZ zone
All 500 owner occupied
At least 100 affordable

Why you should care:

developer may bring you a proposal; carrots, not sticks; use it!

WASATCH FRONT REGIONAL COUNCIL



WFRC
LEGISLATIVE
WRAP-UP

 **2024**
Spring Training

2024 Bills that Passed

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HB 572: State Treasurer Investment Acts

Rep. Robert Spendlove and Sen. Don Ipson; Steve Waldrip

Authorizes State Treasurer to invest up to \$300 million of state funds (TIF) as deposits to lenders for “qualified projects” (QPs)

- “Qualified project” = housing proposal with:
 - 60% sold at “first home” levels (\$450k)
 - owner-occupancy requirements for 5 years
 - Max of 75% of overall QP financing

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Other Land
Use Provisions

HB 572: State Treasurer Investment Acts

Rep. Robert Spendlove and Sen. Don Ipson; Steve Waldrip

- Financing:
 - Treasurer offers loan at a rate no higher than 1.5% above fed funds effective rate at time of investment
- Repayment:
 - with interest at a rate equal to greater of fed funds effective rate minus 2%, and .5%
 - earlier of 24 months, loan repayment, or sale of last QP house

Why you should care:

developer may bring you a proposal;
carrots, not sticks; use it!

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Other Land
Use Provisions

HB 13: Infrastructure Financing Districts

Rep. Jim Dunnigan and Sen. Kirk Cullimore

Creates a type of special district to finance public infrastructure

- **Key point:** property owners must have land use approval
- **IFDs** are created by petition with **consent of 100% of the surface property owners.**
- Governed by an appointed board.
- **IFDs** may issue bonds to pay for infrastructure on the public bond market to access lower interest rates.
- **IFDs** are authorized to impose a **.0004 property tax mill levee**
- Bonds are repaid through an assessment on each residence.

Why you should care:

developer may use an IFD so ensure your land use & infra plans are ready

2024
Bills that
Passed

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HB 476/subs

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Other Land
Use Provisions

HB 13: Infrastructure Financing Districts

Rep. Jim Dunnigan and Sen. Kirk Cullimore

Creates a type of special district to finance public infrastructure

- **Protections for city/residents:**
 - **Must** have land use approval
 - Infrastructure must be **built to city standards**
 - Assessments must be paid prior to C of O issuance
 - Property tax may not be used to repay the bonds
 - Districts dissolved within 180 days of debt repayment

Why you should care:

developer may use an IFD so ensure your land use & infra plans are ready

2024 Bills that Passed

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Other Land
Use Provisions

SB 168: Affordable Building Amendments

Sen. Lincoln Fillmore and Rep. Stephen Whyte

Commission on Housing Affordability/Unified Economic Opportunity Commission bill:

Three major components:

1. Defines the regulatory process for modular (pre-fabricated) building construction.
2. Authorizes the Home Ownership Prosperity Zone (HOPZ) tool.
3. Makes technical changes to the First Time Homebuyer Assistance Program and real estate reinvestment covenants

2024 Bills that Passed

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Other Land
Use Provisions

1. Defines the regulatory process for modular (pre-fabricated) building construction

Goal: Affordable home ownership through lower building costs and faster construction

- Built off-site
- Local building official performs plan review of onsite elements only
- Constructed and inspected offsite by manufacturer
- Each phase of production inspected by a Utah-licensed third party inspector with a combination license
- Modular is transported to building site and assembled onsite
- City inspects onsite elements (foundation, assembly of modular, etc.)

Why you should care:

expect more modular factories & more units

2024 Bills that Passed

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Other Land
Use Provisions

2. Home Ownership Prosperity Zone (HOPZ) tool.

Optional tax increment tool for cities

Criteria:

- Zone is **less than 10 contiguous acres**
- Cities must zone for at least **6 units per acre**
- **60% of the housing units must be at 80% of the county median sales price**
- All housing units must be **owner-occupied for at least 5 years**

Tax increment:

- Other taxing entities are required to participate
- 60% of increment for system or project infrastructure for up to 15 years

Parameters:

- Only 50 acres per school district of only one city
- Only 100 aggregate acres
per school district of 2+ cities

Why you should care:

developer may bring you a proposal;
carrots, not sticks; use it!

2024 Bills that Passed

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3. Makes technical changes to the First Time Homebuyer Assistance Program and real estate reinvestment covenants

2024
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HB 465: Housing Affordability Revisions

Rep. Stephen Whyte and Sen. Lincoln Fillmore

Commission on Housing Affordability/Unified Economic Opportunity Commission bill:

Two major components:

1. MIHP report changes
2. CRA/RDA set-aside changes

2024 Bills that Passed

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Other Land
Use Provisions

1. Moderate Income Housing Plan Revisions

- No substantial changes to menu items or reporting timelines
- Reports will now include zoning maps (or links to them) and number of entitled units
 - **Objective:** better understanding of 190k planned for and unbuilt housing inventory pipeline
 - Take the data collection seriously

Why you should care:

Accurate data is the only way to disprove the anecdotes that cities are not taking growth seriously.

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Use Provisions

2. CRA/RDA Set-aside Changes

- Housing set aside **flexibility** - set aside funds may be spent in nearby communities (w/ interlocal agreement) and on owner occupied affordable (<120% AMI) product
- Set aside funds must be spent, encumbered, or otherwise planned for within six years of the set aside funds being deposited
 - Year 1 set-aside funds must be planned for/encumbered/spent by year 6, year 2 funds by year 7, etc.

Other technical changes to tax credit program, POTM land authority, and DWS housing grant pass through administration

2024 Bills that Passed

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Other Land
Use Provisions

HB 476: Land Use Regulations Modifications

Rep. Stephen Whyte and Sen. Lincoln Fillmore

Land Use Task Force Items

1. Development agreements
2. Landscaping Requirements
3. Land Use Application Processing/Phasing of a Development
4. Design exceptions for overpressure zones
5. Landing/rear setbacks
6. Sidewalk phasing assurance bonds
7. Subdivisions clean up
8. Annexation Language

2024 Bills that Passed

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Use Provisions

1. Development Agreements

- **Removes language** about disclosure of “clearly established state law”
- **Clarifies** that development agreements may not be required by a municipality if the developer is not requesting anything outside of what is already permitted
- **Limits** municipalities from recording certain documents that impose development requirements on land



2024 Bills that Passed

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Other Land
Use Provisions

2. Landscaping Requirements

- **Clarifies** that a certificate of occupancy may not be withheld because the homebuilder has not put landscaping in
- **Allows** a municipality to require a seller of a new residence to inform the first buyer of the new residence of the city's ordinance requiring waterwise landscaping



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Use Provisions

3. Land Use Application Processing / Phasing of a Development

- **Clarifies** that unless otherwise required in a development agreement, a municipality must accept and process a land use application without regard to any other separate and distinct land use application.

2024 Bills that Passed

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Use Provisions

4. Design Standards Exceptions for Overpressure Zones

- Allows municipalities to determine design standards **IF** the development is within a blast zone that would cause an explosion which could pose a risk of damage to a window, garage door, or carport of the facility
- Certain requirements to fit this exemption apply

2024 Bills that Passed

SB 208

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SB 185

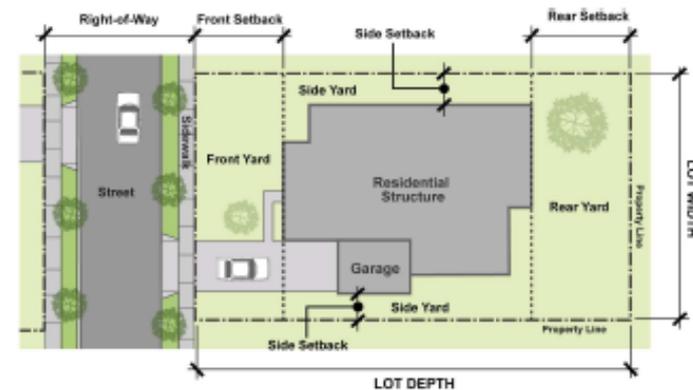
HB 289

Other Land
Use Provisions

5. Landing/Rear Setbacks

- Permits landings and walkout porches to be located within the rear setback if:
 - No larger than 32 square feet in size
 - Used for ingress and egress from the rear
 - Is uncovered, connected to the rear of the dwelling

Does not apply to historic districts



2024 Bills that Passed

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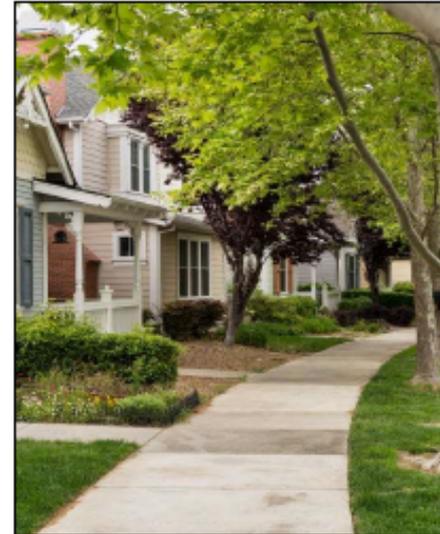
HB 289

Other Land
Use Provisions

6. Sidewalk Phasing

- Prohibits requiring sidewalks to be completed prior to a building permit
- Prohibits cities from redeeming sidewalk assurance bonds prior to 18 months after issued
- Allows cities to require completion prior to the Certificate of Occupancy being issued
- Sidewalk phasing can skip, but must be installed for each residence before it may be occupied

****Only applies to single family homes and townhomes**



2024 Bills that Passed

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Other Land
Use Provisions

7. Subdivision Code Cleanup

- Subdivision Improvement Plan submissions
- Preliminary vs. Final Engineering Plans
- Timing of reviews

Reminder: December 2024 deadline for cities with less than 5000 residents! Training and Templates at ULCT.org



2024 Bills that Passed

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Other Land
Use Provisions

SB 185: Residential Building Inspections

Sen. Evan Vickers and Rep. Cal Musselman

Goal: Faster inspections without sacrificing quality

- Cities required to have Third-Party Inspection List:
 - First-Fourth Counties/Cities: At least 3
 - Fifth-Sixth Class Counties/Cities/Towns: At least 1
 - **Can include other city/town building inspectors
- Builder notifies city/town on fourth day of what building inspector it will use
- Third party inspector is paid by city/town after receiving approval and report by inspector
- City not held liable for inspections it does not perform

Why you should NOT care:

If you are already following the law
& doing inspections within three days

2024 Bills that Passed

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Other Land
Use Provisions

HB 289: Property Rights Ombudsman

Rep. Kera Birkeland and Sen. Lincoln Fillmore

Goal: Compliance with Office of the Property Rights Ombudsman advisory opinions

Process:

- OPRO issues advisory opinion against you, AND
- District Court sides with advisory opinion

Then:

Court **may** award the substantially prevailing party reasonable attorneys fees and court costs

AND

If the Court finds that the city knowingly and intentionally violated the law it **may** award:

- \$250 per day (remnant of past law)
- Consequential damages

Why you should care:

- Potential increase in land use disputes
- Potential increase in judgment amounts
- Potential increase in attorneys fees, costs

2024 Bills that Passed

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Other Land Use Provisions

Other Land Use Bills

- SB 13 Education Entity Amendments
- HB 188 Modifications Relating to the Use of Land
- HB 256 Military Compatible Land Use Amendments
- HB 518 State Construction Code Modifications
- HB 562 Utah Fairpark Area Investment & Restoration District





HB 430 Local Government Transportation Services Amendments

Creates the **Public Transit Innovation Grants pilot program**, intended to increase public transit services in high-growth areas. The program will provide grants to local governments to help them improve their public transit services.



HB 502 Critical Infrastructure and Mining

Calls for a **study** of the issues surrounding the mining of sand and gravel.



SB 28 Scenic Byway Program Amendments

Extends the sunset of the Scenic Byways Program for five years; requires the Legislature to approve any new scenic byway designations that may be proposed.





SB 264 Inland Port Authority Amendments

Makes numerous modifications to the inland port authority program.



SB 258 Municipal Incorporation Amendments Creates a “preliminary municipality” entity for up to 3 unincorporated areas per year through 2031, after a feasibility study, to incorporate as a PM and then transition to town within 4 years of the 1st C of O or 6 years total.



HB 330 Unincorporated Areas Amendments Automatically triggers annexation of unincorporated islands to adjacent cities on July 1, 2027, in Salt Lake County only. Allows unincorporated, noncontiguous islands in community council areas to incorporate as a noncontiguous municipality if they meet the criteria.



2024 Bills that Passed

but may change

HB 507 Stormwater Construction Amendments

Rep. Cal Musselman and Sen. Curt Bramble

- DELAYED EFFECTIVE DATE of Jan. 1, 2025
- Establishes standards regarding how municipalities:
 - regulate controls for storm water runoff;
 - inspect construction sites impacting storm water runoff and establishes penalties for non-compliance
 - Interim discussion expected



2024 Bills that Failed

HB 306 (by-right residential zoning)

HB 367 (local fees)

SB 172 (gravel pits)



2024

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UTAH LEAGUE OF
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Transportation Update

\$1.2+ Billion for Transportation



Transportation Funding

\$775M 1X and
\$330M ongoing



TTIF Commuter Rail

\$45M ongoing to
TTIF for FrontRunner



Point of the Mountain Transit Stop

\$50M



Other Legislatively Directed Projects

\$75M+

Growth and Planning Appropriations



Power District Transportation Study \$500K ONE-TIME

- Develop and evaluate technical options for roadway, transit and trails to support economic development in the area
- WFRC lead study in coordination with UDOT, UTA, Salt Lake City, and public/private sector



Market Capacity Analysis \$250K ONE-TIME

- Evaluate how and where growth and development will and should unfold
- Aligns market demand with planned growth and infrastructure capacity
- UEOC recommended study
- GOEO lead agency – WFRC Partner



UTAH LEAGUE OF
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2024

**Transportation
Bills that
Passed**

HB 430: Local Government Transportation Services

Rep. Candice Pierucci and Sen. Kirk Cullimore

- City/cities propose a transit innovation grant pilot
 - Proposal must show how it would increase ridership, integrate with service
- UDOT/Transportation Commission administers grant program
 - Consult with COGs, MPOs, UTA in developing rules to rank, prioritize, fund
- Transit innovation grants can be funded with:
 - 4th Qtr Local Option Sales Tax (requires 10% of .10% in Weber, Davis, SL, UT)
 - 5th 5th Local Option Sales Tax (\$3M from CFCHPF)
 - Transit Transportation Investment Fund
- Requires UTA to provide report of revenues collected and service utilized by each city

SB 179: Transportation Amendments

Sen. Wayne Harper and Rep. Kay Christofferson

- Removes TTIF match requirements for projects proposed by UDOT.
- Persons cannot store flammable, explosive, or combustible materials directly beneath roads and bridges owned by UDOT or UTA.
- Commission to develop an electronic titling system.
- UDOT to provide public transit services in consultation with any relevant public transit provider.
- Modifies state park access highways.
- Modifies the requirements for a person challenging the dedication of a highway, street, or road to the public.
- Modifies clean vehicles decal/transmission requirements.

Why you should care: impacts TTIF monies ... and don't plan for explosions

SB 51: Road Construction Bid Limits

Sen. Winterton and Rep. Watkins

- Raises the class B&C roads construction maintenance bid limit for 2024 to \$350,000
- Ties the bid limit growth formula to the National Highway Construction Cost Index

Why you should care:

A higher threshold for road maintenance bids makes small projects more efficient

SB 28: Scenic Byway Program Amendments

Sen. Wayne Harper and Rep. Kay Christofferson

- Extends the Utah Scenic Byway Program sunset date to 2030
- Maintains the current composition of a scenic byway commission
- Modifies the process for designating scenic byways:
 - Commission makes a recommendation to the Transportation Interim Committee
 - Transportation Interim Committee considers the designation and makes their own recommendation to the broader legislature
 - Legislature approves, approves conditionally, or denies designation by resolution

Why you should care:

The scenic byway designation program would have otherwise expired this year.

SB 135: Advanced Air Mobility Amendments

Sen. Wayne Harper and Rep. Kay Christofferson

- Creates regulatory framework for “roadable aircraft” (flying cars)
- Requires local governments to adopt airport overlay zones within 500 feet of public vertiports
 - *Similar to overlay requirement around large airports*
- States that flights over lands and waters of the state is lawful unless the flight is low enough to interfere with existing uses or could be imminently dangerous to persons or property
- Prohibits public entities from using certain foreign-made drones for inspection of critical infrastructure unless:
 - The drone is not connected to internet;
 - All data (images, video, geospatial data, and flight logs) are removed before connection to the internet
 - If video inspection is used, the software for the inspection must be developed in the US or approved under the National Defense Authorization Act

Why you should care:
Vertiport changes and drone data protection

HB 449: Pedestrian Safety and Facilities Act Modifications

Rep. Nelson Abbott and Sen. Kathleen Riebe

- Class B&C funds may now be used for bicyclist safety traffic devices in addition to pedestrian traffic safety devices
- Highway authorities shall consider bicycle safety in addition to pedestrian safety in highway engineering and planning where bicycle traffic may be a significant factor in a project

Why you should care:

More B&C fund flexibility & active transportation planning

HCR 11: Concurrent Resolution Recognizing the Importance of Cross-Issue Growth Impacts

Rep. Bridger Bolinder & Sen. Kirk Cullimore

- Recognizes multifaceted challenges of growth
- Encourages private, public, and community partners to consider all growth issues when making policy or funding decisions

Why you should care:

Local governments are balancing growth with quality of life

HB 335: State Grant Process Amendments

Rep. Val Peterson & Sen. Jerry Stevenson

- Creates reporting and process requirements for state granted funds
- State grant recipients must propose a budget and deliverables prior to receiving the grant
- State funds must be disbursed on a schedule that provides accountability and responsible oversight for the use of funds
- Multiyear state grants may no longer exceed five years
- Clarifies that legislative auditor may review all state grant funds
- Provides additional guidance and requirements for state agencies

Why you should care:

You may encounter additional requirements for state grants

HB 488: Transportation Funding

Rep. Robert Spendlove & Sen. Kirk Cullimore

- Provides new funding to the TTIF
 - \$45M ongoing for commuter rail improvements
- Expands local option sales tax uses
 - SLCo uses of the county "5th 5th" portion now includes public safety in addition to transportation
 - Expands .30% (2nd quarter) uses to public safety in 3rd-6th class counties
- Provides funding for specific projects from the County of the First Class Highway Projects Fund, and Rail Restricted Account
 - ~\$44M from CFCHPF for projects in SLCo
- SLCo: if "5th 5th" is imposed...
 - Funds 5600 W. express bus service with a portion of SLCo 5th 5th
 - Creates the County of the First Class Infrastructure Bank, funds new IB with portion of 5th 5th, funds specific projects with repayments to the IB
- Adjusts funding going to the Cottonwood Canyons Transportation Investment Fund

Why you should care:

Changes to county-imposed sales taxes for transportation



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UTAH LEAGUE OF
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General Government Update

SB 91: Local Gov't Officers Compensation

Sen. Chris Wilson and Rep. Paul Cutler

- Applies only to compensation for:
 - City or Town Manager or Chief Administrative Officer (or Assistant of any)
 - City or Town Attorney
 - Department and Division Heads (and Assistants/Deputies)
- Independent stand-alone public hearing before a final budget or final amended budget if compensation increase:
 - Salary, including salary paid under contract;
 - A budgeted bonus or budgeted incentive pay;
 - A vehicle allowance; and
 - Deferred Salary
- Requirements for noticing public hearing on compensation increases:
 - Notice must be at least 7 days before the public hearing
 - Class A notice

Why you should care:

You will need more public hearings for any compensation increases.

SB 86: Local Gov't Bonds Amendments

Sen. Lincoln Fillmore and Rep. Brady Brammer

- Lease revenue bonds limited to:
 - No limit on any individual lease revenue bond, but cannot exceed \$200 million in any consecutive three year period
- Requirement for Public Hearing:
 - Begin after 6 p.m.
 - Held separate from other public hearings
 - Can be held before or after other public hearings
 - Public comment period must give public an opportunity to be heard
 - Within reasonable time limits
 - Without unreasonable restriction on the number of individuals allowed to make comment
- Noticing Requirements on Next Slide

Why you should care:

Plan wisely with the dollar cap in mind.

SB 86: Local Gov't Bonds Amendments

Sen. Lincoln Fillmore and Rep. Brady Brammer

- Make a statement in a public meeting at least 14 days before the public hearing:
 - Intent to issue
 - Purpose and estimated amount of bond
- Indicate this statement on the public meeting agenda as a separate item
- Newspaper, Electronically, Class A notice at least 14 days before public hearing
- Statement must contain:
 - Clear statement of intent to issue bonds
 - Purpose, proposed amount, length of bond, annual amount of principal and interest
 - Identify intended lessee; Expected annual amount of lease payments required
 - Date time, place, purpose of public hearing

HB 335: State Grant Process Amendments

Rep. Val Peterson and Sen. Jerry Stevenson

- Creates reporting and process requirements for state granted funds
- State grant recipients must propose a budget and deliverables prior to receiving the grant
- State funds must be disbursed on a schedule that provides accountability and responsible oversight for the use of funds

Why you should care:

You may encounter additional requirements for state grants

HB 335: State Grant Process Amendments

Rep. Val Peterson and Sen. Jerry Stevenson

- Multiyear state grants may no longer exceed five years
- Clarifies that legislative auditor may review all state grant funds
- Provides additional guidance and requirements for state agencies



UTAH LEAGUE OF
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Religion

HB 396: Workplace Discrimination Amendment

Rep. Brady Brammer and Sen. Michael Kennedy

- Prohibits compelling an employee to engage in “religiously objectionable expression” that the **employee reasonably believes** would burden or offend the employee’s **sincerely held religious beliefs**.
- Religiously objectionable expression:
 - Expression (action or inaction)
 - Examples:
 - Dress and grooming requirements
 - Speech
 - Scheduling
 - Prayer
 - Abstention
 - Abstentions relating to healthcare

Why you should care:

HR folks – Pay attention! Perhaps it’s time to revise some policies!

HB 396: Workplace Discrimination Amendment

Rep. Brady Brammer and Sen. Michael Kennedy

- Request by employee must reference this section and give the employee a reasonable opportunity to accommodate
- **Exception to Law:** If doing so would cause an **undue burden** to the employer by **substantially** interfering with the employer's:
 - Core mission or the employer's ability to conduct business in an effective or financially reasonable manner
 - Ability to provide training and safety instruction for the job.
- **Scheduling Exception:** Do not have to accommodate scheduling requests if you have less than 15 employees

SB 150: Exercise of Religion Amendments

Sen. Todd Weiler and Rep. Jordan Teuscher

- Prohibited from inhibiting the free exercise of religion.
- Free Exercise of Religion = “The right to act or refuse to act in a manner **substantially motivated** by a sincerely held religious belief, regardless of whether the exercise is **compulsory** or **central** to a larger system of religious belief”
- May substantially burden if:
 - Essential to a compelling governmental interest
 - Least restrictive means in furthering that interest
- Attorneys fees shall be awarded to prevailing party

Why you should care:

Without a deep understanding of this and other religious bills, you could get burned.

HB 460: Gov't Employee Conscience Protection

Rep. Michael Peterson and Sen. Todd Weiler

- Prohibited from denying an employee's "reasonable" request to be relieved from performing a certain job, duty, or function if:
 - Performing the task would conflict with the employee's sincerely held religious beliefs **or conscience**;
 - Met all other requirements for the request (detailed – look at closely on timing)
- Prohibited from taking retaliatory action (termination, demotion, pay, etc.) for submitting a meritorious request.
- Records that include information related to the request or government's response are considered "protected" under GRAMA and subject to disclosure and penalty provisions.

Why you should care:

Three religious bills passed this session – each are quite different!

HB 460: Gov't Employee Conscience Protection

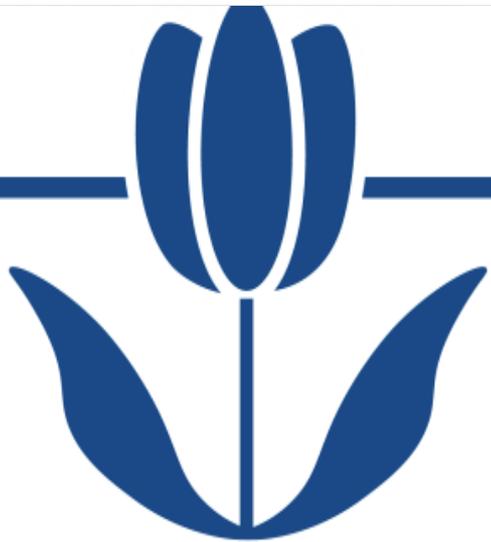
Rep. Michael Peterson and Sen. Todd Weiler

- Exceptions:
 - **Does not impose an undue hardship on the governmental entity**
 - “Substantial burden, privation, or adversity” on governmental entity that would result from granting an employee’s request to be relieved from performing a certain task when considering all relevant factors
 - If task is part of training or safety instructions directly related to the employee’s employment
 - Granting the request would create a conflict with an existing legal obligation and the governmental entity cannot avoid the conflict
 - The employee is a first responder and the request by the employee involves a task that involves protecting the safety of the public
 - Employee’s asserted religious beliefs or conscience described is being asserted for an improper purpose

HB 460: Gov't Employee Conscience Protection

Rep. Michael Peterson and Sen. Todd Weiler

- Not required, but....Adopt a policy detailing the process of request, response, grievance process, and appeal rights! Must be specific to this protection/process.
 - Give notice of changes to policy
- Private right of action
 - A number of exceptions
 - Must file 180 calendar days after the day on which the employee received the governmental entity's response



UTAH LEAGUE OF
CITIES AND TOWNS

2024

Spring Training

Medical Cannabis & Drugs

SB 233 Medical Cannabis Amendments

Sen. Luz Escamilla and Rep. Ray Ward

- **Overriding Purpose:** Treat all medical cannabis users and medical cannabis cardholders the same as any other user of legal controlled substance user and controlled substance prescription holder.
- **Definition of “adverse employment action” includes:**
 - Dismissal;
 - Suspension;
 - Reduction in compensation;
 - Failing to increase compensation if employee is entitled to or been promised;
 - Failure to promote if employee would have otherwise been promoted;
 - Threatening adverse action

Why you should care:

You need to be prepared when an employee tests positive on the job.

SB 233 Medical Cannabis Amendments

Sen. Luz Escamilla and Rep. Ray Ward

- Before any adverse action of person who tests positive for cannabis or cardholder, municipality must have a policy:
 - Comprehensively detail when an employer can take an adverse action
 - Does not treat medical cannabis any differently than another controlled substance
- Before any adverse action of person is taken solely because the employee is a cannabis cardholder or a prescription holder of controlled substances, the government employer must:
 - Consult with the City Attorney (if they have one or contracted with one)
 - Obtain approval from the Mayor

SB 233 Medical Cannabis Amendments

Sen. Luz Escamilla and Rep. Ray Ward

- Adverse action requirement does **not** apply to:
 - Jeopardize **federal funds**, security clearance, or other federal background determination required for the employee's position
 - Employee's position is dependent on **a license or peace officer certification** that is subject to federal regulations
- BUT...exceptions above do not apply to the requirement that one must consult with the city attorney and approve through mayor before adverse action is taken solely for having a medical cannabis card.
- Effective: May 1, 2024

HB 411: Local Gov't Entity Drug – Free Workplace Policies Amendments

Rep. Cory Maloy and Sen. Michael Kennedy

- Before drug testing an employee, volunteer, a prospective employee or volunteer, you must adopt a written policy or ordinance.
- You must follow your policy or ordinance. Any deviation will leave you in a hard place to defend.
- Permits/clarifies that local governments can use oral drug tests in addition to urine drug tests
- Effective Date: May 1, 2024

Why you should care:

Lower costs by doing oral drug tests instead of urine drug tests.



UTAH LEAGUE OF
CITIES AND TOWNS

2024

Spring Training

Data Privacy

HB 491: Data Privacy Amendments

Rep. Jefferson Moss and Sen. Kirk Cullimore

- High Level Descriptions! Must Read! (White paper coming soon!)
 - Controlling laws
 - Privacy Programs
 - Required Reporting
 - Data Breach Requirements
 - Noticing Requirements
 - Training Requirements
 - Contract Agreement Requirements
 - Remedies for failure to implement

Why you should care:

This will affect just about every process and department of the city.

HB 491: Data Privacy Amendments

Rep. Jefferson Moss and Sen. Kirk Cullimore

- Provisions of GRAMA control over Part 4 if they are already addressed in GRAMA
 - Given breadth of both statutes – Ask your attorney when GRAMA or Part 4 applies
- Privacy Program before May 1, 2025
 - Policies, practices, procedures for processing personal data
- “Personal Data” means “information that is linked or can be reasonably linked to an identified individual or an identifiable individual”
 - Name, phone number, social, financial, address, business address, username, email addresses, drivers license numbers, guardian’s name or minor, etc.
 - If we collect information, it is likely personal data.

HB 491: Data Privacy Amendments

Rep. Jefferson Moss and Sen. Kirk Cullimore

- Annual report to state:
 - Types of personal data currently shares or sells
 - Basis for sharing or selling personal data
 - Classes of persons and the governmental entities that receive the personal data
- Annual privacy training (and 30 days after start of employment):
 - Only employees that have access or part of their job duty to access personal data of individuals
- Contracts and renewals:
 - After May 1, 2024, contractors are bound by Part 4 in the same way that governmental entities are bound.
 - Suggestion: **Put provision in all contracts!**

HB 491: Data Privacy Amendments

Rep. Jefferson Moss and Sen. Kirk Cullimore

- Personal data request notice when requesting or collecting:
 - Reasons the request for the personal data is made
 - Intended purposes of the data
 - Consequences for refusing to provide the personal data
 - Classes of persons and entities that share the personal data or receive the personal data from the governmental entity on a regular or contractual basis
 - Record series the personal data would be included in
- Posting of Request Notice:
 - “Prominent place where the governmental entity collects the personal data”
 - Including on the actual form collecting the data; QR
 - Linking or displaying a QR code linked to an electronic version of notice.

HB 491: Data Privacy Amendments

Rep. Jefferson Moss and Sen. Kirk Cullimore

- Establish process to amend personal data after it has been collected by the government entity BUT
 - Not required to accept the amendment – just have to create the process to request
- Data Breaches:
 - Must notify Cyber Center and Attorney General of data breach no later than five days after discovery of the breach
 - Notification includes many different pieces of information – Refer to law
 - Notification to affected persons without unreasonable delay, but only have to after:
 - Determining the scope of the breach
 - Restoring the affected system
 - Notice to affected persons has a lot of requirements – Refer to law



UTAH LEAGUE OF
CITIES AND TOWNS

2024

Spring Training

Retirement

SB 34: Utah Retirement Systems Revisions

Sen. Wayne Harper and Rep. Cheryl Acton

- Requires URS participating employers to maintain all records and certifications under the law
- If participating employer fails to fully comply with reporting, contribution, certification, or record keeping requirements, then they bare all liability and expense.
- A penalty of an amount not to exceed 50% of the participating employers' total contributions for the time period of the error.

Why you should care:

Penalties are severe if you do not keep good records.

HB 251: Postretirement Reemployment Restrictions Amendments

Rep. Matthew Gwynn and Sen. Wayne Harper

- Optional program for URS participating retirees to enter reemployment and optional for URS-participating employers to hire public sector retirees
- Creates a new retiree reemployment track for public employees
 - Shortened cooling off period
 - 60 days for public safety, 90 for all other public employees
 - Reduced URS retirement benefits for individuals who use this track for duration of reemployment
 - 15% reduction for public safety, 20% for all other employees
 - Cost of Living Adjustment is frozen for duration of reemployment
- Public employers who choose to hire employees participating in this track pay a higher URS rate for them.
- **Existing cooling off period is maintained and program is cost neutral for all other employees, retirees, and employers.**

Why you should care:

Because you will retire one day and want to come back to your city job.



UTAH LEAGUE OF
CITIES AND TOWNS

2024

Spring Training

Employee
Related
Matters

HB 257: Sex-based Designations for Privacy, Anti-bullying and Women's Opportunities

Rep. Kera Birkeland and Sen. Dan McCay

- Public school sex-designated **restrooms** vs. City sex-designated **changing rooms**
- **Changing rooms:** Dressing rooms, fitting rooms, locker rooms, shower room and a restroom when a changing room contains or is attached to the restroom
- Prohibits individuals from accessing sex designated changing rooms that are open to the public unless:
 1. The individual's sex at birth corresponds with the sex designation of the changing room **OR**
 2. A) The individual has legally amended their birth certificate to correspond with the sex designation of the changing room **AND**
 3. B) They have had a primary sex characteristic surgery

Why you should care:

It is important to know what circumstances HB257 applies to and what it does not.

HB 257: Sex-based Designations for Privacy, Anti-bullying and Women's Opportunities

Rep. Kera Birkeland and Sen. Dan McCay

- Exclusions:
 - City facility sex-designated bathrooms (unless that bathroom has a changing room attached to it.)
 - Employee bathrooms, changing rooms, locker rooms (because they are not open to the public)
 - A minor child that needs assistance to access or use the changing room from parent, guardian, or relative
 - Dependent minors and adults that require the assistance of their caretaker
 - Public safety personnel acting in the capacity (police, fire, ems)
 - Employee of a healthcare facility when providing health care services
 - Individuals whose employment duties include maintenance or cleaning of the changing room

HB 257: Sex-based Designations for Privacy, Anti-bullying and Women's Opportunities

Rep. Kera Birkeland and Sen. Dan McCay

- City required to **call law enforcement** if they receive a complaint or allegation of breaking laws (lewdness, lewdness involving child, voyeurism, loitering in a restroom or changing room, criminal trespass in a changing room).
- **Adopt a privacy compliance plan** that addresses compliance under this law
- New Construction
 - Required to include at least one single occupant facility
- Existing bathrooms or changing rooms:
 - “Consider” the feasibility of retrofitting or remodeling to include:
 - Floor to ceiling walls or doors or similar privacy protections
 - Curtains; or
 - Other methods of improving the privacy

HB 257: Sex-based Designations for Privacy, Anti-bullying and Women's Opportunities

Rep. Kera Birkeland and Sen. Dan McCay

- Penalty:
 - Fine of up to \$10,000 per day for violation (this is after a 30 day notice to cure period)
- Protection for enforcing it – defense, indemnification, hold government harmless, including court costs and attorneys fees IF:
 - Arise because of the law
 - Not covered by the government entity's insurance policies

HB 55: Employment Confidentiality Amendments

Rep. Kera Birkeland and Sen. Todd Weiler

- Nondisclosure clause: Provision that prevents or prohibits (or has that effect) an employee from **“disclosing or discussing”**:
 - Sexual assault or allegations
 - Sexual harassment or allegations
- Non-Disparagement clause: Provision that prohibits (or has that effect) an employee from making **negative statements about the employer** related to:
 - Allegations of sexual assault or sexual harassment (or disputes arising from the allegations)
- Retroactively effective **January 1, 2023**

Why you should care:

Sample settlement/separation agreements may need revisions

HB 55: Employment Confidentiality Amendments

Rep. Kera Birkeland and Sen. Todd Weiler

- Before employment begins:
 - Any requirement of a prospective employee to agree to a non-disparagement clause or non-disclosure clause as a **condition of employment**. Any such provision is void and unenforceable.
- After employment has begun, retaliation is prohibited on basis that:
 - Employee makes **allegation** of sexual harassment or sexual assault;
 - Employee **refuses to enter** into a confidentiality clause or employment contract
- Three business days after agreement is signed - Cooling off period if settlement agreement has confidentiality clause.

HB 55: Employment Confidentiality Amendments

Rep. Kera Birkeland and Sen. Todd Weiler

- Useless to try to enforce settlement agreement confidentiality clause:
 - Liable for all costs and attorneys fees to enforce it (even if prevailing party);
 - Not entitled to monetary damages resulting from a breach
- Does not prohibit a clause that includes:
 - Confidentiality clause or other clause that prohibits disclosure of settlement amount
 - At request of the employee, facts that could reasonably lead to the identification of the employee
 - Non-compete clause
 - Trade secrets, other confidential, proprietary information (not otherwise illegal)

Employee
Related
Matters

HB 257

HB 55

HB 228

HB 261

Social Media

HB 55: Employment Confidentiality Amendments

Rep. Kera Birkeland and Sen. Todd Weiler

“Negative statement about employer”

≠

“Knowingly false statements or reckless disregard
for truth”

HB 228: Public Employee Leave Amendments

Rep. Norman Thurston and Sen. Stephanie Pitcher

- Municipalities that employ state legislators must grant and may not interfere with (or retaliate against) individuals receiving unpaid leave for however many hours are requested on a day of the session or other required training meeting.
- **Exemption for municipalities:**
 - If legislative body determines that complying with above would cause:
 - Significant difficulty or expense when considered with the size, financial resources, nature, or structure of the municipality's operations.
 - Any agreement between the employer and legislator will override this law.

Why you should care:

Planning ahead for time-off for legislators can ease the burden...

HB 261: Equal Opportunity Initiatives

Rep. Katy Hall and Sen. Keith Grover

- Prohibits the submission, a statement, or a document that requires an individual to articulate the individual's position, view, contribution, effort, or experience regarding a policy, program, or initiative that promotes differential treatment based on an individual's race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender.
- Prohibits required training that promotes prohibited discriminatory practices (Look at list in law)
- Exclusions:
 - Compliance with federal law or other state laws
 - Federal grants
 - Discrimination and harassment trainings
 - Bonafide occupational qualification for the position

Why you should care:

You do not want to be in violation –
Revise your policies and forms!

Social Media Policies

Lindke v. Freed

- City Manager's facebook personal account, but posted occasional work-related posts
- Freed deleted responses that were derogatory or "stupid"; eventually blocked completely
- Lindke sued based on prohibiting his right to free speech
- First Amendment only applies to government action to restrict free speech (not private action)

Why you should care:

So that this is not your next civil rights lawsuit! A violation is costly.

Social Media Policies

Lindke v. Freed

- Standard: “A public official’s social media activity constitutes state action under [the law] only if the official:

1. Possessed actual authority to speak on the State’s behalf, and
2. Purported to exercise that authority when he spoke on social media

****Word to the Wise**:**

- Be deliberate in what authority you give in job descriptions;
- Have good social media policies

- **WHITE PAPER COMING SOON!**



UTAH LEAGUE OF
CITIES AND TOWNS

2024

Spring Training

School
Safety

HB 84: School Safety Amendments

Rep. Ryan Wilcox and Sen. Don Ipson

- Modifies the International Fire Code and Building Codes
 - Building inspector must coordinate with the county security chief to ensure compliance before issuing a C of O for a school.
- Applies to a law enforcement agency with a school resource officer unit
 - Develop a policy that indicates the following:
 - Process for assigning and selecting school resource officer
 - Required training of a school resource officer
 - Internal reporting requirements
 - Arrest and use of force protocols
 - General oversight and accountability
 - Can adopt the State Security Chief's model policy if desired

HB 84: School Safety Amendments

Rep. Ryan Wilcox and Sen. Don Ipson

HB 84

- Provides regulations concerning “School Guardians” and when, how, and for what purposes they may carry and use a gun within a school.
 - Training required
- Others may contract
- Read whole bill for details (all 85 pages of it!)