



STAFF REPORT

To: Summit County Council
From: Janna Young, Interim County Manager
Date of Meeting: February 1, 2023
Type of Item: Update on the 2023 General Session of the Utah State
Legislature
Process: Work Session

During the 2023 general session of the Utah State Legislature, staff, along with Councilmembers Malena Stevens and Chris Robinson, will provide the County Council weekly updates on the issues and activities the County is monitoring and working on at the State Capitol.

Requested Council Action

None.

Background

On Tuesday, January 17, 2023, the general session of Utah's 67th legislature began and will run until Friday, March 3, 2023. Over the next 45 days, Summit County's internal legislative working group will track activity at the State Capitol and provide updates to the County Council.

The County's legislative working group is comprised of the County Assessor, Auditor, Clerk, (2) Councilmembers, Recorder, Treasurer, Health Department Director, Chief Financial Officer, Community Development Director, Economic Development Director, Transportation Planning Director, County Manager, Deputy County Manager, Sustainability Program Manager, Public Lands Manager, Emergency Manager, and representatives from the County Attorney's Office and Sheriff's Office.

This group meets weekly to monitor bills, share information, decide County positions on legislation, participate in Utah Association of County's (UAC) weekly policy coordinating meetings, work closely with the County's House and Senate members and the County's lobbying team on issues, attend committee meetings, and potentially testify before committees, if appropriate.

Each week at the County Council meeting, Councilmembers Malena Stevens and Chris Robinson, and Interim/Deputy County Manager, Janna Young will report to the Council on these activities, and request input on issues and support for proposed county positions on bills.

Bills Summit County is Currently Monitoring

Below is a list of some of the bills we have seen thus far and are following. Please note that bills change frequently throughout the session. The below information reflects the situation at the time of drafting this report and is subject to change:

Health and Human Services

HB 71 – Local Health Department Revisions (Peterson) – UAC Monitoring

This bill was triggered by the large amount of funds local health departments were receiving from the federal CARES Act and American Rescue Plan Act (ARPA) as a result of the COVID-19 pandemic. The state started looking into how much health departments were investing in their services from county funds on a per capita basis. They discovered that some counties were hardly contributing any funding. Summit County is not in this situation; we contribute one if not the most among all the local public health agencies within the state.

The original version of this bill set a floor for the amount of funding health departments would have to contribute. It has morphed into being more a reporting bill where Health Departments have to report their prior year spending to the state by October 1 each year. UAC is working closely with the Health Directors Association on this bill.

HB 66 S1 – Behavioral Health Crisis Response Commission Amendments (Eliason) – UAC Supports

Creates a grant program to create up to 5 local crisis outreach teams (MCOT) and two receiving centers in rural areas. The Department of Health and Human Services and UBHC have loosely decided the receiving centers will be in Cache County while the MCOTs will largely be in the Wasatch Front.

HB 259 – Suicide Prevention in Correctional Facilities (Moss) – UAC Supports

Creates a grant program for jails to create physical barriers within the county jail to prevent suicide.

HB 125/HB 126 – Postretirement Reemployment Amendments/Modifications (Birkeland) – UAC Supports as currently written (does not support the change to 6 months)

This bill would allow a qualifying retiree to be rehired after 60 days of employment with a public entity and not impact their URS retirement if they do not receive any

employer paid benefits. HB 126, states a qualifying retiree can earn up to \$35,000 per year in post-retirement reemployment instead of the current \$17,000 and that it will be adjusted with inflation. Qualifying retirees include public safety officers, including teachers, firefighters, and other first responders. UBHC is asking the bill sponsor to include therapists as a category to address provider shortages. UAC is hearing a substitute is coming out that will change the 60 days to 6 months, which UAC does not support.

SB 116 – Local Health Department Modifications (Kennedy) – UAC Opposes

The purpose of the legislation is to remove the authority of the health department to quarantine people for a host of public health reasons. Health Departments are meeting with the bill sponsor to see if modifications can be made.

HB 111 – Inmate Treatment Amendments (Watkins) – UAC Opposes

This bill regards medically assisted therapy (MAT) in jails. It requires a county or municipal jail to continue providing MAT if an inmate received it prior to incarceration. Those administering the medication have to be certified to administer, which are often not correctional officers. Sheriffs have concerns about security in jails. MAT is already required, and many jails are working towards providing it. A substitute is being proposed to expand who can provide the MAT so people in the jail can do it instead of outside providers. UAC would like to see the legislature fund MAT but not require it and allow jails to store the medication at the Sheriff's discretion. We know a substitute is coming but has not yet dropped. In its current form, UAC opposes the bill.

HB 29 S2 – Mental Health Support and Law Enforcement Co-Response (Stoddard) – UAC Monitoring

This bill has morphed from funding MCOTs into paying for social workers who are paired with first responders. The model of pairing therapists with law enforcement helps rural counties.

HB 177 – State Hospital Amendments (Hawkins) – UAC Monitoring

Rep. Hawkins was approached by people who own a water park in Utah County who also approached the state to see if they were interested in selling them the state hospital land to build a water park. This bill sets up a commission made up of legislators to decide if the state hospital should be relocated and if so, where to. The commission would also include the Directors of State Facilities Construction and Management and Department of Health and Human Services. The problem with this bill is the state hospital is 100% opposed to the bill and believes it will potentially hurt them in their retention and recruitment of providers, which is tough for them now. Additionally, local mental health authorities oppose it because it takes attention away from expansion of services and capacity, which is the most important thing for the state hospital. Utah County Commissioners were on the

board that recommended this commission to study this issue to see if relocating the hospital would allow it to expand and provide more services. The current location of the hospital makes it tough to staff. UAC is uncomfortable with moving a state facility for a water park but sees the value in studying the issue.

HB 40 – Indian Child Welfare Amendments (Watkins) – UAC Supports

Request from San Juan County to create the Indian Child Welfare Act in Utah so foster children can be placed in homes with relatives if they are part of a native community to maintain customs and culture so native traditions are not lost.

Revenue and Taxation

HB 58S03 – Tax Modifications (Rep. Spendlove) – UAC Monitoring

This bill makes corrections to provisions related to tax, including eliminating redundant or obsolete language and updating cross-references; modifies the required contents of a property tax notice; clarifies that the State Tax Commission, not the Division of Finance, is responsible for certain sales tax deposits and transfers; and repeals language related to expired income tax credits.

HB 231 – Low Income Housing Property Tax Exemption (Rep. Eliason)

Provides for the circumstances under which a private owner of property used as permanent supportive housing qualifies as a "nonprofit entity" for purposes of the exclusive use property tax exemption.

Economic Development

HB 224 – Outdoor Recreation Initiative (Rep. Stenquist)

Creates the Recreation Coordinated Investment Initiative; grants rulemaking authority; requires reporting; and addresses funding of the initiative.

SB 20 – Military Installation Development Authority Amendments (Sen. Stevenson)

For purposes of creating a public infrastructure district, the bill clarifies who is considered the owner of military land within a project area by the Military Installation Development Authority; amends provisions relating to ownership of a former rail line adjacent to a project area located at an air force base; and enacts provisions immunizing a governmental entity from liability related to the ownership of certain historically contaminated property.

This bill may have implications for Summit County regarding environmental contamination liability and the Rail Trail even though the bill seems to be targeted at non-superfund sites within Hill AF Base that are overseen by DEQ. We are trying to get more information from Senator Stevenson about his intent.

Government Operations

HB 157 – County Office Consolidation Amendments (Rep. Peterson)

Rep. Peterson is running this bill on behalf of Cache County. It changes the deadline for a county legislative body to enact an ordinance that consolidates or separates county offices from February to January 1 of the year in which county officers are elected.

HB 176 – Municipal Voting Methods Amendments (Rep. Stenquist)

This bill gives a participating municipality the option of selecting different methods of conducting an election as part of the Municipal Alternate Voting Methods Pilot Project; describes the process of voting and of determining winners in an alternate voting methods race, depending on the voting method selected by a participating municipality.

SB 43 – Public Notice Requirements (Sen. Pitcher)

This bill creates classifications for types of public notices counties are required to make pertaining to public meetings where each classification requires notice to be provided in specific ways and amends the public notice provisions to implement the new classification system. It is an extremely large bill (over 200+ pages). All UAC affiliates were asked to review it to see if it will affect us in any negative way. UAC's Civil Attorney's Group was asked to weigh in as well.

SB 37 – Municipality Incorporation Amendments (Sen. Vickers)

This bill modifies the procedures and requirements for incorporating a municipality. The biggest change being that the bill transfers many of the duties currently fulfilled by the Lieutenant Governor to the county of the area proposed for incorporation, which the sponsor feels should happen at the local level. The biggest question counties have is which office in the county would be responsible for handling this function. UAC staff has asked Sen. Vickers for clarification in the bill on that issue.

HB 21 – Open and Public Meetings Act Amendments (Rep. Briscoe)

This bill requires a public body holding an open meeting to allow a reasonable opportunity for the public to provide verbal comment at the meeting, with certain exceptions; and requires a public body to adopt a resolution, rule, or ordinance allowing public comment in a public meeting. UAC chose to oppose the bill because they feel it is an overreach of the legislature. Regardless of what happens, we do not believe it will impact Summit County as we already allow for public comment (oral and written) at all our public meetings.

HB 173 – Government Attorney Fees Amendments (Birkeland) – UAC

Opposes

This bill requires a court to award reasonable attorney fees to a private party who prevails in certain civil actions adverse to a governmental entity; permits a court to award reasonable expert fees to a private party who prevails in certain civil actions adverse to a governmental entity; and makes technical and conforming changes.

Counties have never had to pay attorneys' fees in state courts before. Since the language in the bill is "shall," judges have to charge the fees and do not have discretion. Counties are concerned about the cost of this change. Liability insurers will have to significantly increase rates for counties if this bill were to pass – upwards of 50% increase - on all liability coverage to put money away to cover these fees as the fees would also apply to everything except a tort case.

HB 280 – Local Government Construction Project Bid Notice (Owens) – UAC Supports

This bill makes it so all public notices for construction bids do not have to be placed in five different places in the county. It can be posted on the state public site and fulfill the noticing requirement. The bill does not prohibit posting it in other places if the county desires.

Public Lands and Natural Resources

SB 76 – Water Amendments (Sen. Sandall)

This bill requires, among several things, County Planning Commissions to consult with the State Division of Water Resources on the water elements of the General Plans to understand the impact they have on the Great Salt Lake to understand how each regional plan will affect the Great Salt Lake overall.

HB 262 – Wildlife Management Area Amendments (Snider) – UAC Opposes

This bill establishes wildlife management area purposes; provides for how the wildlife management area purposes and uses are to be implemented; imposes certain conditions on entering a wildlife management area; requires specific license, permit, cooperative agreement, or certificate of registration to engage in certain uses while in a wildlife management area; provides exemptions; authorizes rulemaking; addresses unlawful uses; addresses unlawful road closures; and makes technical changes.

Counties are concerned about the bill and have been meeting with Rep. Snider to gauge his interest in changes. One of the concerns is the bill excludes the public from accessing these Wildlife Management Areas under the guise that the lands were bought with license sales but that is not entirely true. Every WMA is different and public funds used to purchase them so why excluding public access.

Criminal Justice and Public Safety

HB 210 – Justice Court Changes (Hawkins) – UAC Opposes

This bill creates a Justice Court Reform Task Force and clarifies that the Utah Supreme Court and the Utah Judicial Council provide direction and oversight of the Justice Courts and not counties. Counties have many concerns with this bill ranging from losing control of the Court and local decision-making about Justice Court judges, and the availability of attorneys within rural areas. The bill sponsor is amenable to suggested solutions from UAC.

SB 124 – Law Enforcement Officer Amendments (Escamilla) – UAC

Supports

Sheriff's Association is working with the bill sponsor who is amenable to amending language. This bill does three things primarily: strengthens background investigation for prospective law enforcement employees; adds failure to report misconduct, which is in current law, that allows a POST-council to sanction a chief if they fail to report misconduct; and creates a requirement for all law enforcement agencies to implement an early intervention warning system to alert an administrator when there are concerns about a particular deputy. Includes a grant program to help agencies that do not have a tracking software to set up one.

HB 59 S2 – First Responder Mental Health Amendments (Wilcox) – UAC

Supports

The bill adds the spouse of a retired first responder to be eligible to receive mental health services from the agency from which they retired. Currently retirees are covered but no other family members. The bill also includes other employment categories like forensic interviewers and changes the timeline for coverage from 3 years after retirement to 3 years from the time the spouse reports the need for services. The bill sponsor is amenable to including other work categories who need the assistance.

SB 105 – Traffic Enforcement Amendments (Sen. Stevenson)

Amends the definition for "photo radar"; allows the use of photo radar without a peace officer present in certain circumstances; describes when law enforcement can use photo radar for speed limit or traffic light enforcement; and prohibits the use of photo radar to photograph the front of a vehicle or the faces of a vehicle's occupants.

SB 87 – Criminal Prosecution Modifications (Sen. Weiler)

S.J.R. 6 – Joint Resolution Amending Rules of Procedure and Evidence

Regarding Criminal Prosecutions (Sen. Weiler, T.) – UAC OPPOSES BOTH BILLS

These related bills are strongly opposed by County Attorneys because of the constitutional implications. The bills essentially would treat criminal cases the same way as civil cases and provide additional rights to defendants. The biggest concern is that the bill allows defendants to depose victims and witnesses in preliminary hearings before going to trial. The role of the preliminary hearing is to do what grand juries typically do in deciding if there is enough evidence to proceed to trial. There is also the concern that costs will increase for both prosecution and defense.

SB 98 – Legal Costs Recovery Amendments (Sen. Pitcher)

Currently, if a local attorney declines to file a case and the AG decides to take it up but then drops it, if the person charged is a public employee then the employing agency is on the hook for paying the defense costs. This bill changes that to say if the AG decides to carry the torch and then drops it, the state is on the hook to pay.

SB 114 – County Correctional Facility Contracting Amendments (Sen. Owens) – UAC Supports

This bill is the result of two years of work between counties and Sen. Owners to come up with a solution to permanently fund state inmates housed in county jails. Specifically, it increases the daily jail contracting rate from \$61.03 to \$67.73 in the first year. Next year, the group plans to address the reimbursement rate to counties who house state inmates.

Land Use/Community Development Bills

Many of these bills have not been introduced yet but bill sponsors are speaking with UAC about them in concept. There are three to four major issues we are aware are coming:

- 1) Subdivisions Changes: There is a bill being worked on that changes the subdivision approval process to be administrative in nature as opposed to legislative, bypassing the Council/Commissioner process. If adopted, local governments should update their zoning ordinances to reflect the current will of the Council/legislative body, so the administrative approval follows those priorities. UAC is working on getting training resources to help communities update their ordinances as they relate to subdivisions.
- 2) Accessory Dwelling Units (ADUs): For those communities subject to ADU requirements, the proposed bill will clarify what an ADU is and include design restrictions on cities and counties with ADU ordinances, such as prohibiting local entities from requiring interior modifications of an existing unit that moves to an ADU for any reason except for health safety and welfare (i.e. won't allow requirements for aesthetics). The proposed bill also changes the requirement under state law that an extra parking stall has to be provided

for an ADU if there is already sufficient onsite parking out of the public right of way.

- 3) Moderate Income Housing Plan (MIHP) Changes: Under HB 462 last year, local governments were required to adopt a MIHP. Around 70% of those plans submitted were deemed deficient primarily from noncompliance with a technical requirement but not from negligence. The Legislature is now contemplating penalties that will be assessed for noncompliance with the plan. One proposed penalty floating around is withholding Class B or C road fund allocations.

UAC is working to change the bill to focus only on penalties for overt negligence to comply and instead of Class B and C road funds, make it a fine/payment into the local entities Affordable Housing Trust Fund or the Olene Walker Fund if they do not have a trust fund, and allow for an appeal or protest process if the state claims a plan is noncompliant before penalties are applied. Counties should have a remedy for non-negligent failures to comply. It is clear that what the law requires and how it is being implemented by the state is not what actually works on the ground.

Significant Dates

- January 17 Legislative Session Begins
- January 19 Last day legislators can designate priority bills
- January 26 Last day to either pass or defeat each base budget bill
- January 27 Last day to request bills or appropriations without floor approval

- March 1 Last day to prioritize fiscal note bills and identify other programs for new funding
- March 1 Final action must be taken on each appropriations bill
- March 2 Last day to pass any bill with a fiscal note of \$10k or more
- March 3 Last Day of the Session
- March 23 Last day the Governor may sign or veto bills
- May 2 Last day a veto-override session may begin
- May 3 Normal effective date for bills
- May 3 First day a legislator can open a bill file for appropriation request for the next general session

- Every Monday during session: Meeting of the Summit County Legislative Working Group
- Every Tuesday during session: Meeting of UAC policy steering committees
- Every Thursday During Session: Meeting of the UAC Legislative Coordinating Committee

Engagement, Access, and Transparency

Interested citizens can watch Utah's 2022 legislative session in real time or access archived materials through the Legislature's online tool. To access this tool, go to <https://le.utah.gov/> and click on the "calendar" button. Click on the desired meeting and the committee webpage will have links to materials and the audio/video recording.

Additionally, the Legislature's website allows citizens to sign up to follow individual bills and receive email alerts whenever action is taken on the measure. To sign up for alerts, go to <https://le.utah.gov/>; click on the "Bills" tab at the top of the page. Then either perform a bill request or keyword search. Once locating the desired bill, click on either the "Track this" or "Email notification" button underneath the photograph of the bill sponsor.

The website for each individual bill also provides the bill text, status information, audio/video of any committee hearings or floor debate, and details on the bill sponsor.