



## **STAFF REPORT**

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

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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 67<sup>th</sup> 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**

Headed into the final week of the legislative session, below is a list of the remaining bills and issues Summit County continues to work on and monitor:

**Community Development**

**SB 84 Substitute & HB 446, Housing and Transit Reinvestment Zone Amendments (Harper/Snider) – Summit County and UAC Strongly Oppose**

HB 446 is a bill to help Dakota Pacific Real Estate, who has a pending land use application before the Summit County Council regarding an amendment to an existing Development Agreement in the Tech Park site of Kimball Junction. The bill specifically grants this developer the development rights at the density they want in this project site. The bill also disqualifies Summit County’s Moderate Income Housing Plan (MIHP), meaning Summit County is no longer eligible for TTIF dollars for transportation and transit infrastructure. High Valley Transit in Summit County had been awarded more than \$30 million from this fund for the Bus Rapid Transit (BRT) on SR-224.

HB 446 was adopted as a substitute to Senator Harper’s SB 84 when it went to the House and passed. The Senate concurred to the substitute language on February 16. The bill now awaits the Governor’s signature or veto. As of the drafting of this staff report, the Governor had not yet acted on the bill.

This is the first time in the history of the Utah State Legislature that it has “spot zoned” a specific property to benefit and enrich a specific developer. This action also impairs an existing contract. Counties across the state, and Summit County in particular, are extremely concerned about this overreach by the Legislature and the precedent this action sets for future actions taken by local governmental entities that should be local decisions.

**HB 233, County Land Use Amendments (Birkeland) – Summit County Supports**

This bill repeals the Summit County specific provisions added to last year’s HB 462, which requires Summit County to include an HTRZ as a strategy in our Moderate Income Housing Plan and to submit a plan to establish an HTRZ to the Governor’s Office of Economic Opportunity by December 31, 2022. The bill is being heard in the House Government Operations Committee on February 24<sup>th</sup>. Rep. Birkeland has requested Summit County to co-present the bill with her. Senator

Winterton is the Senate sponsor of the bill and Summit County’s representatives Brian S. King and Mike Kohler are cosponsors as well. Rep. Birkeland has indicated she will offer a substitute in committee that will also overturn the spot zoning provisions from HB 446 that have been passed as part of SB 84.

**SB 174, Local Land Use and Development Revisions (Fillmore)**

This bill amends provisions related to local land use and development. It adds a \$250/day penalty for moderate income housing noncompliance; broadens Accessory Dwelling Units (ADUs) and makes the subdivision process administrative only, allowing not review or decision-making by the legislative body of the municipality or county. It also creates a shot clock for approval subdivision plats and sets a limit of nine months for a county to change development codes. It has passed the Senate and has been assigned to the House Government Operations Committee but has not yet been heard.

**SB 175 Substitute 02, Rural Transportation Infrastructure Funds (Owens)**

**– UAC Supports**

This bill was substituted and now creates a \$40 million Rural Transportation Fund (RTIF) and authorizes \$6 million in ongoing funding for road, street, and highway projects for third through sixth class counties. This bill explicitly excludes Summit County. We are the only third class County that will not receive this new money. Yet, Summit County maintains the most weighted Class B and C road miles than any other third class county, with the exception of Uintah County. Summit County also ranks fifth out of the six third class counties in the amount of Class B and C road monies we receive. Only Wasatch County receives less because they have a smaller unincorporated population. Summit County maintains almost 74% of these roads in the County and the costs have gone up 83% since 2020. Our road infrastructure is critical to the success of projects like MIDA and the Olympics as well as for a huge amount of economic generation and revenue for the state. The bill passed the Senate on February 22.

**SB 185 Substitute 02, Transportation Amendments (Harper)**

This bill creates the Active Transportation Investment Fund within the Transportation Investment Fund of 2005 to be used to develop active transportation infrastructure. It also extends the expiration of the ability for certain political subdivisions to imposes a local option sales tax for certain transportation purposes and requires the Department of Transportation to create an account within the State Infrastructure Bank for loans for certain types of development. The bill has passed the Senate and has been assigned to the House Transportation Committee.

### **HB 291 Substitute, Short-term Rental Amendments (Musselman)**

In an attempt to bring operators of short-term rentals into compliance with business license and tax remittance requirements, this bill provides amnesty to sellers of short-term rentals who obtain a sales and use tax license and meet certain criteria by a specific time. The bill also creates the Short-term Rental Municipal Pilot Program and the Short-term Rentals County Pilot program to gather data on the short-term rental issue across the state. Summit County is considering opting into the pilot to be one of the test cases since we have the largest number of short-term rentals in the state, but we are studying the issue to understand the consequences of participating, especially concerning the potential licensing regulations the Summit County Council is considering. The bill is currently on the House 3<sup>rd</sup> Reading Calendar.

### **HB 364 Substitute 03, Housing Affordability Amendments (Whyte)**

This bill modifies provisions from last year's legislative session in HB 462 relating to moderate income housing, specifically the reporting requirements for certain cities and counties. It also adds a penalty for cities and counties who do not comply with the requirements and establishes an appeal board to hear and decide appeals in relation to city and county moderate income housing reports. The bill establishes the Housing Support Grant Program within the Office of Homeless Services for supporting residential projects that include affordable housing units. It also links any failure to create the HTRZ to noncompliance with the moderate income housing plan, which is effective upon the Governor's signature.

The third substitute moves the deadline by when cities and counties must report to the State Department of Workforce Services (DWS) on progress made toward the benchmarks outlined in their moderate income housing plans from October 1 to August 1. Apparently, this change was requested by DWS so they had more time to review plans and determine compliance. This change makes things more difficult for Summit County as we have two moderate income housing plans that have to be reviewed by two planning commissions.

### **HB 406, Land Use, Development, and Management Act Modifications (Whyte)**

This bill amends provisions related to municipal land use, development, and management of real property. It defines "rural real property" in annexations. Makes it so Development Agreements can only be done with a Specially Planned Area (SPA) or Master Planned Development and limits a moratorium to only six months. The bill was substituted and changed fairly substantially in the House and substituted again in Senate committee. It now heads to the Senate floor.

### **HB 500, County Sales Tax Amendments (Christofferson)**

This bill makes modifications to the "5<sup>th</sup> of the 5<sup>th</sup>" quarter local option sales tax that counties were authorized in 2018 to impose for transportation and transit

infrastructure and operations. Summit County is the only county that has imposed this tax. This bill allocates a portion of the sales tax to cities and expands the uses of the funds to be used on items outside of transportation and transit. Summit County is grandfathered into the bill, meaning our tax will be preserved and not be reallocated to other entities. We fought for this provision as High Valley Transit is funded by this tax and has bonded against it. The bill has been assigned to the House Revenue and Taxation Committee.

## **Government Operations**

### **HB 173 Substitute 03, Government Attorney Fees Amendments (Birkeland)**

This bill allows a private party to recover attorney and expert fees as the prevailing party in certain civil actions adverse to a governmental entity. UAC worked to improve the bill so counties would not see large increases in their liability insurance coverage. However, the bill still requires counties to pay the costs of attorneys' fees in areas county insurers do not cover. This bill is currently on the House third reading calendar.

### **HB 214, Primary Election Revisions (Kyle) – County Clerks Oppose**

This bill pertains to primary election races and procedures related to runoff elections. The runoff timing is impossibly short, and it may come with a hefty price tag for counties per runoff. The bill is being heard in the House Government Operations Committee on February 24.

### **HB 351 Substitute 03, County Recorder Modifications (Teuscher) – Summit County Opposes, UAC Monitoring**

This bill establishes the County Recorder Standards Board for the purposes of establishing statewide standards for county recorders and hearing and deciding appeals from decisions of county recorders. The bill specifies the membership of the Board which includes a long list of special interests who have frequent business before county recorders. It also requires the Department of Commerce to provide staff support to the board and the board's administrative expenses are to be paid from the remittance of a portion of fees collected by county recorders. It was held in Senate Committee and the bill sponsor was asked to work with UAC to address concerns. We expect the bill to come back this session but hopefully more watered down.

### **HB 448 Substitute 02, Election Changes (Maloy)**

This bill amends provisions of the Election Code and the authority of the Lt Governor in providing oversight of elections as well as addresses the legislative audit post-election. The bill passed out of House Committee and is currently on the House third reading calendar.

### **HB 537, Voting Amendments (Birkeland) – County Clerks Oppose**

This bill provides that, subject to certain exceptions, an election officer is only required to send ballots by mail to active voters who request, in a voter registration form or another written document, to receive ballots for all future elections by mail. It also requires a county clerk to notify active voters of the requirement to request to receive ballots by mail; and provide active voters with a form to make the request. The bill is being heard in the House Government Operations Committee on February 24. The Clerks are concerned the bill will create confusion and come with a hefty price tag to print, mail, and process the vote by mail form.

### **SB 199, Local Land Use Amendments (McKell)**

This bill modifies provisions regarding referenda. Specifically, 2/3 vote of a legislative body on land use is no longer subject to referendum. The bill has passed the Senate and is on the third reading calendar in the House.

### **SB 219 Substitute 02, Criminal Privacy Violation Amendments (Winterton)**

This bill codifies an expectation of privacy for characteristics, data, or information about an owner's property that is not immediately apparent through routine visual observation, and which requires advanced technology to capture the information about the property. It also allows a court to order the removal of any data captured during a "criminal trespass." This bill would make it illegal for County Assessors to utilize arial imagery to assess properties. Aerial imagery is a critical tool for Assessors in capturing the data they need to calculate accurate value assessments of properties. The bill has passed the Senate.

### **SB 228, Property Amendments (McCay) – County Assessors Support**

This bill would require the disclosure of all nonresidential property sales, which provides necessary data for County Assessors to assess commercial properties. They have extremely limited data currently. The bill has passed the Senate.

## **Public Lands and Natural Resources**

### **HB 371 Substitute 04, Working Farm and Ranch Protection Fund (Snider)**

This bill renames the LeRay McAllister Critical Land Conservation Program and instead establishes the LeRay McAllister Working Farm and Ranch Fund. It also addresses county use of rollback taxes and rollback tax funds. This could possibly restrict Summit County's ability to use the LeRay McAllister Fund, which is an extremely valuable matching grant fund for the acquisition of land for conservation. We are unsure how they define "public lands" and if the percentage includes lands owned by the county, city, or state, or just federal lands. The bill has passed the House and is on the Senate third reading calendar.

### **HB 469 Substitute, Wildlife Related Amendments (Snider)**

This bill requires the Division of Wildlife Resources to notify the Division of Professional License of a suspension of the privilege to hunt; addresses hunting with an air rifle; and creates the Wildlife Land and Water Acquisition Program. While the fund created by this bill interests us, it appears to restrict funds from being used on the acquisition of property for public lands counties. The bill passed out of the House Natural Resources Committee.

### **Criminal Justice and Public Safety**

#### **HB 259 Substitute, Suicide Prevention in Correctional Facilities (Moss)**

This bill addresses suicide prevention in County jails by requiring jails that house state inmates to install a suicide barrier on the second floor/level of the jail. Originally a grant funded this program but last week, the funding was removed. Counties, while supportive of the intent of the bill, are concerned about the cost and this unfunded mandate. The bill passed the House and is currently circled on the Senate's second reading calendar.

### **Miscellaneous**

There are several energy-related bills that are concerning to Summit County as they may impact our sustainability goals and efforts to increase renewable energy and reduce greenhouse gas emissions.

#### **Anti-ESG, Anti-DEI**

The following bills could limit Summit County's ability to incorporate sustainability considerations into our procurement practices and/or limit the ability for investment decisions to be made with sustainability in mind. These bills could also restrict what businesses feel they can do with their investment decisions, hiring practices, and corporate values.

- **HB 449 Financial Services Requirements** is now **HB 449 S01 Unlawful Anticompetitive Activity Amendments** and is more framed around monopolies but still seems to challenge ESG and DEI priorities
- **HB 451 State Entity Restrictions**
- **HB 96S02 Fiduciary Duty Modifications**
- **SB 97S02 Public Contract Requirements**

#### **Energy policy**

The following bills could make Summit County's efforts to pursue renewable energy for County operations and communitywide more costly and challenging. Taken together, these bills seem to suggest that only fossil fuel-based energy can provide affordable, reliable energy, which is not true. One thing that is challenging is that each bill has aspects that are likely good, but the outcome could make pursuing renewable energy more challenging as a whole.



- **HB 389 Electrical Power Delivery Quality Amendments**
- **HB 407S02 Incentives Amendments**
- **HB 425 Energy Security Amendments**

**HJR 25 Highlighting the Hazards of Net-zero Energy** recognizes the “threat that net-zero energy policies pose to affordable, reliable, dispatchable, and secure energy for the state,” which is illogical to Summit County because the County, along with many local contractors, homeowners, and businesses are interested in net-zero energy as it encourages efficiency (high performing buildings), resilience (battery storage), long term costs savings (lowered utility bills) and overall encourages to look at *optimizing* our energy system.

### **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.