

2009 Utah Legislative Update Summary

The following is a summary of bills passed at the 2009 Utah Legislative session. For complete text on all of the bills please refer to <http://www.le.state.ut.us/asp/passedbills/passedbills.asp>. View the Enrolled version of the bill. Some of the bills affect only some counties based on their class. Cache County is currently a county of the 3rd class. When the total population of the county reaches 125,000 we will become a county of the 2nd class.

Impact Fees & Exactions

HB68 – Development Exactions defines the term “water interest” and limits local government ability to exact “water interests” to no more than what is needed “for the reasonable future.”

HB259 – Local Government Amendments tightens up provisions on impact fees by defining “educational facility” and disallowing impact fees on schools to be used for parks, trails, and recreation facilities. The bill also provides for local governments to allow for exemptions for state agencies and schools (including charter schools).

HB274 – Local Government Fees and Charges directs state agencies and schools to submit plans as soon as possible to allow for impact fee calculations and requires local governments to respond with reasonable promptness. Once determined, fees cannot be changed unless plans are altered. The bill makes some changes to the way fees are calculated. In addition the bill specifies that application and hook-up fees are to only cover actual costs

SB84 – Impact Fees changes notice requirements for impact fees from 14 to 10 days. The preparer of an impact fee analysis is required to submit written certification of compliance with State code. The bill also allows fees assessed on *non-residential* developments to be used for fire trucks of more than \$500,000.

SB153 – County and Municipal Land Use Amendments prohibits charging of fees for approvals and permits that may exceed actual costs and requires cities and counties, upon request, to provide itemized detail of fees being charged. The bill prohibits local governments from requiring, as a condition of approval, a “will serve” letter from school districts.

Subdivisions

SB209 – LUDMA Amendments simplifies processes for amending plats and for vacating streets and easements. This bill eliminates the requirement for public hearing for subdivision plat amendments, but requires holding of at least one public meeting. It also eliminates the requirement for a recommendation for plat approval from the planning commission.

HB258 – Amendments to Notice Provisions for Subdivision Changes was a technical correction that changes a code reference for giving notice.

Billboards

HB141 – Billboard Amendments defines “visibility area” and “clearly visible” and adjusts allowable height. HB141 increases from 60 to 90 days the time to find mutually acceptable relocation before eminent domain action is considered initiated. Overall this adds more complexity to an already complex section of State Code. If you feel that you may be affected by this amendment please look at the language in the bill using the link above.

SB190 – Acquisition of a Billboard by Eminent Domain modifies provisions relating to authority of a billboard owner who proposes to structurally modify, upgrade or relocate a billboard under a complex set of rules. Compensation for billboards taken by eminent domain is to be based on actual annual revenue, less rent; the cost of the land, and the cost of the structure.

HB272 – Utah Scenic Byway Designation Amendments requires legislative, local government approval of applications for National Scenic Byway or All-American Road designations. The bill changes the composition of the State Scenic Byway Committee by adding a private business representative, 3 local elected officials, and House and Senate members. The Committee can “segment” byways, with consent of landowners. The Legacy Parkway is exempt from the provisions of this bill.

Open Meetings and Notice

HB323 – Amendments Regarding Notice on Utah Public Notice Website changes requirement for notices for adoption or amendment of general plans or capital facility plans.

SB26 – Open and Public Meetings Act – Meeting Record establishes a process for approval of written minutes and repeals the requirement to convert recordings to writing. Information added to the minutes at the request of board member may only be added if the information was actually part of proceedings. Meeting recording must be available to the public within 3 days of the meeting. Written minutes awaiting formal approval area declared to be public record.

SB208 – Utah Public Notice Website Amendments; As of Jan. 1, 2010, legal notices are to be published in newspapers and on website established collectively by Utah’s newspapers. As of Jan. 1, 2012, in 1st & 2nd class counties, notices must be published on the newspaper website and may be published in print. After Jan. 1, 2012, the website may charge a fee of \$10 for posting.

Land Use Exemptions

HB27 – Protections for Agricultural Areas clarifies that normal agricultural activities are not nuisances and further defines these activities.

HB164 – Migratory Bird Production Areas allows for the creation of areas of at least 500 acres (one or multiple owners). Annexation of and zoning changes within a Migratory Bird Production Area require signatures/consent of 100% of owners. Counties and municipalities cannot enact regulation regarding the discharge of firearms that is more restrictive than State law.

SB 68 – Mining Protection Amendments allows for mining protection areas. The amendments limit local government ability to change zoning in such areas and prohibit any type of land use regulation of vested mining rights, including drinking water protection. Any new subdivision located within 1,000 ft of a mining protection area must include note of such on plat. Mining rights may be expanded in an area when the owner provides written notice to the local government and a public hearing is held. Following the public hearing the expansion may take place, unless the hearing uncovers “clear and convincing evidence that expansion will imminently endanger public health, safety and welfare.”

Miscellaneous

SB41 – Siting of High Voltage Power Line Act requires the public utility to notify landowners and public entities when applying for land use permits for high voltage power lines. Also, the utility must conduct workshops and provide information. Appeals on information submitted and of the route selected are made to the Utility Facility Review Board.

SB73 – Unincorporated Area Amendments provides a process to remove an area from a township where the county governing body votes first. The decision can be appealed to a “committee” and the withdrawn areas may be annexed. This also provides processes to dissolve townships and to create new townships. The process includes holding an election.

SB115 – Payment of Mobile Home Park Relocation Expenses authorizes the payment of relocation expenses for dislocated mobile home park residents.

SB171 – Municipal Annexation Amendments modifies the definition of affected entity to exclude 3-6th class counties unless the area to be annexed contains development and school districts unless the district boundary would be modified. The bill also allows for annexation of islands or peninsulas of less than 50 acres without a petition.

SB205 – Community Development and Renewal Agency Amendments includes a number of insignificant changes to the RDA law and eliminates the requirement for 20% of tax increment to go to housing in EDA areas.

SB269 – Public Utility Easement Amendments clarifies that easements for gas, electric or phone utilities cannot be abrogated due to a lack of use or adverse possession.

SB187 – Alcohol Amendments eliminates private clubs.

VETOED

HB156 – Subdivision Approval Amendments would have allowed parceling off one lot per 100 acres without complying with plat or subdivision requirements in counties of the 3-6th class. It would have prohibited those counties from denying building permits for minor subdivision lots so long as they meet “reasonable” standards for health, safety and access.