

2011 Legislative Summary

PLANNING BILLS

HB78 – Developer Fees – This bill came about primarily because of a concern in the development community that a number of local jurisdictions, to keep their planning offices afloat, were putting in place “new” or increased fees for various development-review services. A quick survey by the League found that this was generally not the case, but that there were probably a few instances of some questionable new fees or increases in fees. It was apparent, however, that local governments should be able to provide justification for the fees that are charged as a general practice, and to conform with existing provisions in state code. This bill, then, was one of the bills agreed upon by the League’s land use task force and the property rights group. The bill makes some clarifications of definitions, and then requires that when requested, local governments must provide basis for any fee charged, accounting of where fees go and what they are expended for. A process for appeal of fees must also be established.

HB295 – Outdoor Advertising Amendments – This bill was apparently prompted by UDOT’s concern for what the Real Salt Lake sign on I-15 near 90th South actually was – not really an on-premise sign, but also one that flashed messages for other businesses so it looked a lot like an off-premise sign. To stay compliant with federal requirements, UDOT was pushing for a better definition of what this sign was and what it could do. Hence, this bill, which creates a new category for signs for “public assembly facilities” and specifies what they can and cannot do – generally, they are on-premise signs but are allowed to show messages about “sponsors,” which are frequently other businesses. The bill also had added to it, as a result of discussions going on in some jurisdictions, a requirement that any illumination standards adopted must apply to all signs in the jurisdiction, on- or off- premise, public or private.

HB412 – Land Use Revisions – This bill defines what “therapeutic” schools are, clarifies that they are not charter schools, and then revises the section of the code dealing with exemptions from local regulations for schools and charter schools, an emphasis that the local jurisdiction cannot adopt or enforce regulations that are contrary to federal fair housing and disabilities acts.

HB432 – Nuisance Amendments – This bill deals with a provision that states that a manufacturing facility in operation for more than 3 years cannot be declared a nuisance. It adds the phrase, “due to circumstances in land uses near the facility.”

HB434 – County Amendments – This bill requires that the county governing body enact an ordinance by January 1, 2012 that provides for the election of three of the members of those township planning commissions that were originally established with the requirement for elected PC members, including those that had been dissolved and then reconstituted. The bill also states that if no one files to run for an open elected township PC seat, there may be a provision for the governing body to fill the seat by appointment.

HB487 – County Use of Land Use Ordinance – This bill was apparently prompted by a local jurisdiction’s requirement for resubdivision of existing lots, that signatures are required from the chain of owners going back in time. This bill, which applies only to counties, It specifies that the signature of an owner of record of a lot is sufficient to re-subdivide a lot. The bill also makes a change in the section which exempts a division of land for agricultural purposes from the plat requirements of 17-27a-603. Previously the code said that if such a lot is used for nonagricultural purposes, the county “may” require it to meet section 603. This bill changes “may” to “shall.”

SB70 – Community Development and Renewal Agency Amendments – This bill makes a number of changes to the RDA code, much of it based on the particulars of an RDA project area for the old Geneva Steel site in the community of Vineyard. Among the provisions included in the bill: Changes the required vote of taxing entity committee to approve designation for an area that is an inactive industrial site, inactive airport, or closed military base, to a simple majority; does not allow the committee to rescind approvals, unless agreed to prior to the vote that that is an option; excludes cultural or recreational uses from the definition of municipal buildings (because RDA funds are not allowed to be used for municipal buildings); and prohibits UDOT from closing rail crossings on inactive industrial sites.

SB126 – Local District Service Amendments – This bill essentially requires special service districts to follow the same requirements as local governments on charging fees, exactions, and improvement guarantees.

SB146 – Impact Fee Amendments – This bill is essentially a recodification of the impact fees sections of the state code, which was needed due to numerous amendments over the last several years. The main provisions of the bill includes changes to the term “capital facilities plan” to “impact fee facilities plan”; revised definition of “development activity” to be certain that local districts fall within the Act; made it easier to repeal and outdated impact fee; made it easier to waive impact fees for affordable housing by removing the obligation to identify another revenue source to replace the waived fees; added the property rights ombudsman third party opinion process to the Act, to make clear this can take place; clarifies that the sole remedy for challenging and impact fee is a refund of the difference between the fee that was charged and the fee that should have been charged.

SB178- Municipal Land Use Amendments – This bill is a continuation of last year’s bill on changes that can be required of non-conforming rental housing. It allows for requiring smoke detectors, GFI outlets, new plumbing and electrical systems if the current system does not function, hand/guard rails, separation doors, and egress windows if they do not compromise the integrity of the structure and meet all other code requirements. It does not allow for abatement of non-conforming rental housing.

SB243 – Historic Areas or Sites Amendments – This bill was intended specifically to address the on-going controversy over historic district designation in the Yalecrest

neighborhood in Salt Lake City. The bill was written carefully to apply primarily to that area, and to prohibit the creation of such a district until at May 2012. It is anticipated that discussion during the interim will result in a bill in next year's legislative session that will set additional requirements for historic district designations.

SB282 – Small Mining Operations - Changes definition of small mining operation, which relates to the type of permit required, in counties, from 5 to 10 acres; in cities, 5 acres at any given time.

SB293 – MIDA and Annexation Amendments – This bill makes some changes to the provisions for the Military Installation Development Authority (MIDA), adopted a few years ago primarily for the private development of land on military bases. These include: MIDA can petition for annexation of military property as if it were sole owner; the military can object, in which case MIDA cannot proceed; county permission to create a MIDA project area is not required if the area is entirely within municipal boundary; and bonding language changes.

PROCEDURE BILLS

HB54 – Electronic Communications in Public Meetings – This bill defines electronic communication, and allows a member of a public body to transmit an electronic message to other members of the public body when the public body is not convened in an open meeting.

HB267 – Public Body Rules of Procedure – This bill requires public bodies to adopt rules of procedure that address:

- Parliamentary order and procedure
- Ethical behavior
- Civil discourse

It also requires the rules to be made available to the public at each meeting and on website.

SB85 – Legal Notice Amendments – This bill eliminates provision that would have allowed 1st and 2nd class counties to no longer advertise in newspapers next year. In return, newspapers can charge no more for legal notices than their average advertising rate. It also requires newspapers to have legal notice website, where the legal notices must be included. These provisions are to also apply to local and special service districts.

FAILED BILLS OF INTEREST

HB 49 – Utility Facility Siting - Prompted by power line location disputes in Tooele and Box Elder Counties

HB197 – Amendments to Municipal and County Powers - Would have prohibited cities and counties from regulating temporary signs. Would have defined what are temporary signs

HB286 – Funding for Burying Utility Lines - Would have allowed cities and counties to impose a .1% sales tax to create a fund for burying of utility lines

HB380 – Utah Lands Protection Act - Would have prohibited State from changing management plan or selling land in National Parks, if they were to come under state jurisdiction

HB419 – State Land Use Planning - Would have required any change in use of Federal land, or change in wilderness designation, to first be approved by the state legislature

SB231 – Film Enterprise Zone - Would have allowed GOED to approve location for film studios “and other reasonable uses commensurate with the film industry” of at least 20 and no more than 50 acres, regardless of local zoning and land use requirements